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## Editorial

### Sleepwalking Again: The End of the *Pax Americana* 1914–2014; After Gaza 2014: Schabas; Peer Review Redux; In this Issue

#### Sleepwalking Again: The End of the *Pax Americana* 1914–2014\*

I

I think it is difficult to contest that the most important state player in world affairs over the last one hundred years – and consistently so over this period – has been the United States of America. World War I – into which, to borrow from Christopher Clark’s justly celebrated book, we ‘sleepwalked’ – marks a useful starting point. It is not only the fairly important role America played in bringing WWI to an end that signals the beginning of this era, but also the no less important role it played in shaping the aftermath. Wilson’s 14 points were considered at the time ‘idealistic’ by some of the yet-to-be ‘Old Powers’. But by dismantling the Ottoman Empire through the principle of self-determination (not at that time a universal legally binding norm) it was an early swallow to the demise, a mere generation later, of all other colonial empires and the truly decisive reshaping of the balance of power in the post-WWII world. The US played an equally cardinal role in ideating and realizing the United Nations Organization and the Universal Declaration of Human Rights – two lynchpins of our current world order.

That opening gambit to the American century is emblematic, in my view, of the entire *Pax Americana* epoch: American action in the international sphere has always had a strong dose of idealism (to be sure sometimes misguided) mixed in with the normal national self-interest which is the usual stuff of international relations, remembering that if we disaggregate the state, as we almost always should, what passes as ‘national interest’ is often but ‘special interest’ of certain sections in society.

I know that the various schools of ‘realism’ tend to pooh-pooh any deviation from interest analysis. Generally speaking, I find the emphasis on interest/power as an explanatory device to human affairs, to the exclusion of almost all other motivations, as laughably reductionist in international affairs as it is in domestic societies. At its

\* This is an excerpt from the Keynote speech delivered at ESIL’s 10th Anniversary Conference, held in Vienna, 4–6 September 2014. The full version will be published in *EJIL* in a subsequent issue.

extreme it is rooted in a vision which denies in principle the possibility of altruism, a position which makes a mockery of the tragic complexity of the human condition. But this is especially true, even if to some counter intuitive, contestable and contested, in the case of the conduct of the USA.

There may be an irony in using the expression '*Pax Americana*'. These last hundred years have been anything but pacific. In some respects they have seen unprecedented barbarism on a scale hitherto unknown in human history, both in kind and degree. In these hundred years we witnessed the Shoah, the Gulags and the 'Great Leap Forward' (which alone resulted in a death toll estimated as high as 45 million innocents.) The first decades of the new century offer no respite, with Darfur, Syria and now ISIS (hundreds of its 'enemies' – their guilt being their identity, no more – were discovered to have been buried alive).

Normative judgment of America tends to be like beauty, in the eye of the beholder. European attitudes are particularly intriguing. You would think that the truly decisive – in the most literal sense of the word – American (and Soviet) role in defeating Germany and its allies and its subsequent role in European reconstruction through the Marshall Plan would be a shared, hugely positive, normative asset. It should be, especially here in Europe and to us Europeans. But think again. In the minds of not a few, Hiroshima and Nagasaki, rather than the defeat of the would-be thousand-year Reich have come to symbolize the American contribution to, and moral stance in, WWII and the US hard line anti-Communist stance during the Cold War is to many the lasting impression of its post-WWII role. This evaluative cleavage persists in relation to all other American 'interventions' (or non-interventions) in world affairs from Korea, through Cuba and Vietnam to Afghanistan and Iraq I and Iraq II. It's an incredibly long list, for there have been few armed conflicts in the '*Pax Americana*' era in which America had no role, direct or indirect.

So what is the normative balance sheet?

The truth, almost as ever, is banal. It's a continuum, with some shining examples of noble American conduct and some truly ugly instances of the Ugly American, notably in Latin America. But in between, the majority of cases are morally complex situations which do not lend themselves to categorical judgment.

Let me open a rather large parenthesis. Attitudes to America in general can oft serve as a litmus test for a whole range of normative positions. Tell me your views on America and I will tell you what you think of A, B and C. Anti-Americanism (in the 'ism' sense of the word) and especially European anti-Americanism is also hugely interesting and has been much commented on in the last few decades. In part it is reactive to America: our reaction to Bush Père v. Clinton, or Bush fils v. Obama, or Iraq I (and Kosovo) v. Iraq II, to give but some examples. In part it is far deeper, almost ontological, and certainly an important part of European self-understanding. An appreciable part of European real or alleged distinctiveness (and cultural and moral real or alleged superiority) is tied up with the sense that we can claim to be, of all places, 'unlike America'. How awful it would be, to our sense of distinctiveness, if Obamacare had really provided for effective and affordable universal healthcare or if America, (re)abolished the death penalty, et cetera. Is there not at times even a palpable grim satisfaction when America lives up to its ugly version?

Make no mistake. There are some real and deep differences in the political cultures: liberty (understood in complex but also elemental ways) is still the bedrock of the American value system and dignity (understood in complex but also elemental ways) is the European counterpart. Religion plays a fundamentally different role in these two polities. And there is a very meaningful difference which distinguishes European and American political cultures in relation to self-reliance manifest in the spirit of economic entrepreneurship, as well as in relation to private philanthropy, by the rich and the poor – the poor proportionally more than the rich. But in other areas, Americans and Europeans view each other through self-serving narratives of each other which oft have little to do with reality. It is most noticeable in the area in which most Europeans think that most differences lie: social solidarity, the welfare state, the economic safety net and all that. America is actually quite different from the European self-comforting or self-aggrandizing caricature. Spending on medical care for the young and old and on social security in the USA is by a huge margin the biggest item in American public expenditure and the social safety net is far more impressive than the habitual caricatures à la Michael Moore. Sure, I can regale you with horror stories from here until further notice; and there is an appreciable underclass; and there is no place for any measure of complacency at all – in either polities. But my impression from living for years in both polities, being a citizen of both, and from a keen interest in the literature, is that American-European differences in this area, in the reality of lives actually lived, is far smaller than often imagined or presented.

Love/hate is not atypical, especially among elites. So many who 'suffer' from quite fierce anti-Americanism are also hugely enamoured with various aspects of American culture (such as Jazz or Rock – it's always one or the other, is it not? – to give but one trivial example). And there is guarded respect even for, *quelle horreur*, important aspects of American political culture such as its contribution to our political thinking and legal culture of such phenomena as feminism and environmentalism. This hate/love is neither a double standard nor a hypocrisy, nor even a contradiction. It's a comprehensible reaction in the face of any reality which is not reducible to caricature.

To return to the *Pax Americana*, there is one sense in which the lexical choice of *pax* has been justified. The greatest contribution of America to European post-WWII prosperity was not the Marshall Plan. It was the security umbrella which the United States provided once the Iron Curtain was drawn and which allowed Europe to invest so much more in butter than in guns. If one were to seek to define the bedrock, the unstated assumption, of European defence and security thinking, until this very day, it would be the belief that if things got really bad, in Europe, or for Europe elsewhere in the world, the American Cavalry would come to the rescue, as it has clamorously done before. I think that was a safe assumption.

A consequence of American dominance resulting in a second foundational plank of European national defence and security strategy was that no state, not even France or the UK, understood themselves to have a global responsibility towards the world which in any appreciable way transcended their national interests. Even the slow and still tortuous emergence of a common European foreign posture has only fleetingly and mostly rhetorically embraced that sort of global responsibility and is better understood as a means, when useful, of enhancing national interests.

Though one could call into question the wisdom or propriety of a whole variety of American actions (some self-lacerating – the American posture towards Cuba is an ongoing folly by the hardest yardstick of American self-interest) there was a sense, in my view largely justified, that America was a guarantor of a kind of stability, through means pacific or bellicose, that made the world on balance a safer place. I know that in substance this is hotly contested by some, but in my view it is hard to contest that this was the prevalent view in Europe and of Europe. In the most primitive sense this was the *Pax Americana*.

## II

No more. There are, of course, no sharp temporal lines – an assassination in Sarajevo was a sign post, not a real cause. Still, 2014 is in contention to be judged by history as the watershed period, the culmination of a structural process in the making, signalling the demise of the *Pax Americana*.

We might think that we have been there before: periods of American economic crisis (inflation in the teens under Carter), isolationism and lack of nerve such as experienced in post-Vietnam, have come and gone. But my thesis is that the current circumstance is different, at least in two unprecedented (if connected) ways, combining to produce the proverbial perfect storm.

First, we are actually not experiencing today American isolationism and withdrawal. Quite the contrary. In some respects we are witnessing heightened American engagement: resetting relations with Russia, the pivot to Asia, frenetic efforts in the Israeli-Palestinian context, direct and indirect activity surrounding events in Egypt and elsewhere in the Arab Spring, the pre-withdrawal surge in Iraq and ongoing commitment in Afghanistan and now in Syria, the determined cultivation of Turkey, vocal diplomacy as regards sanctions against the Ukraine, the Transatlantic Trade and Investment Partnership (TTIP) as a strategic asset, constructive and cooperative American involvement in the Trade Facilitation Agreement and a renewed interest in Africa, to mention but some aspects of contemporary US foreign engagement.

What is different is the *cumulative impression* of, at best, a loss of constraining power and influence, at worst, impotence. There is a growing discrepancy between engagement and results. Just go down the list: relations with Russia at Cold War levels without the containment effect; Chinese bellicose posture *vis-à-vis* Japan and in the South China Sea at a level one would not have imagined a mere decade ago; the US clamorous humiliations (no other word is strong enough) in failing to reignite the Peace Process or to have any impact whatsoever on the bloody Gaza conflagrations; relations with Egypt far more complex than ever before, with American ambiguities towards the regime and the people (disillusioned by American irresolution towards the deposal of Morsi) still reverberating; the collapse in Libya and general American impotence to predict or shape the post-Arab Spring events; Iraq in disarray with America scurrying to seek alliances with yesteryear's enemies in the face of the true Syrian debacle (and a no-one-dare-to-say-what-just-about-everyone-is-thinking, the good-old-days-of-Saddam) and the American would-be and well-deserved dividend in Afghanistan all but written off; a Turkey in which America has lost even the semblance of an ally; the inability of the US to have a united front with the EU on sanctions – it took the Malaysia Airlines catastrophe to bring Europe around, not American pressure; the

TTIP in the doldrums, with the requiem quietly being composed; the collapse – temporary one hopes – of the Bali Trade Facilitation Agreement (itself a fig leaf to the failed Doha) at the hands of India, American pressure and diplomacy notwithstanding. And America in Africa? How do you spell that in Chinese?

There is a discrete explanation and justification for each of these instances. It would be hard, in good faith, to systematically posit plausible alternative American action which would have brought different results in each. But this is truly one of those instances where the whole is quite different from the sum of the parts and where a shift in degree brings about a shift in kind. It is the ‘altogether’ effect which tells the story.

Which brings us to the second factor where the current circumstance is different from the past – here, too, is the cumulative impact of discrete deep structural reasons.

Politics, as usual, comes first and two facets in particular are germane. The first is the typical American public reticence after what are perceived as costly, in blood and treasure, military expeditions, especially when their connection to US security becomes less evident and their success not visible. There is definitely post-Iraq and Afghanistan fatigue. Those who criticize Obama for a weak hand in Syria, for example, woefully overestimate the appetite of the American public for more planes in the air, let alone boots on the ground, anywhere. The vote in the UK (!) Parliament is in this context a watershed event.

The second political factor is more deep-seated and far more constraining than the first. American politics, for at least two presidential cycles (Obama, Bush), has gravely changed. Cultural cleavages conflate with political (and oft economic) cleavages to produce an unprecedented polarized political environment which is debilitating generally to American politics, foreign policy not excluded. American federal politics are increasingly dysfunctional and in a deep structural non-contingent sense. America's world role depends for its legitimacy and efficacy on a modicum of consensus and support both at grass roots and political class level. This has tremendously weakened. When you combine both facets one element of this storm is quite apparent.

The internal results of political stasis – for example the repeated brinkmanship which threatened an American technical default on its debt, though not directly related to foreign policy narrowly defined – further weaken US credibility and trust in its political institutions. There have been too many instances where the President's authority *vis-à-vis* the world has been compromised by the internal political situation. My claim is that these are not aberrational incidents but the result of these structural changes in American politics.

Which brings us to economics. A robust economy is not only a condition for maintaining and financing the budgetary implications, the cost, of the *Pax Americana*, be it in military materiel, strategic foreign aid and the like. It is also, in and of itself, a projection of power. Here the rot set in during the Reagan administration, which arguably won the Cold War, but at a huge long-term strategic cost: taking the US from being the world's largest creditor to being its largest debtor. Make no mistake: America is still the economic superpower, but with some growing structural fiscal weaknesses and, of great importance, in its relative position to others the gap is closing and on some critical economic indicators it is losing or has already lost its supremacy. The issue is not just the ability of the US to sustain its military expenditure – the remarkable doctrine that it should have the readiness and ability to prosecute two major wars simultaneously – but, as stated before, losing some of the clout associated with wealth as a proxy for power. Being hugely in debt to one of your major adversaries is another aspect of the demise.

In this deep strategic calculus demographics matter too: at a certain level of development, human capital becomes critical and a manifestation of power. The demographic disparities were always there, but counted much less when comparing leanly populated developed countries with hugely populated, but poor and uneducated underdeveloped countries. But as the likes of China, India and Brazil can no longer be thought of as poor, uneducated developing countries, it is hard to imagine that the huge disparity in population size will not have increasing strategic significance, economic, military and political. American economic prowess was not just a reflection of its impressive productivity. It was also a result of its voracious consumption appetite which fuelled the export-related wealth of so many countries around the globe. Demographics play a major role in this respect too and the writing is already on the wall.

Finally, there is moral authority. If indeed, and it is a plausible story, the US ‘won’ the Cold War, it has become, ironically a victim of its success. That very end of the Cold War and the spread of democracy (even if often formal and feeble) have all but eliminated the mantle of the US as a guardian of liberty, democracy and human rights in a largely hostile world. It also enabled at popular and official levels the airing of resentments and criticisms pent up during the Cold War. In the more immediate sense, the combination of the likes of Iraq, aspects of the war on terror such as rendition, targeted killings and massive American spying on friends and foes without discrimination have created a serious deficit in American moral capital.

This is not exactly a decline of empire story. I do not envisage the United States coming even close to the rapid decline of Britain after WWII. Despite its current debilitating political dysfunctionality I am among those who believe that the fundamental political, social and cultural resources of the Americans will enable them to reinvent themselves again as they have done before. They will remain for a long time yet an economic giant and their military might will continue likewise to eclipse many others. This is not the end of the US as a Super Power. And the Americans will react, as they have in the past, with grim determination and valour when they sense their homeland is in danger. Woe to their enemies in such instances.

It is their role in the world which I think has changed forever. One might be tempted to sloganize that a Yes We Can has become a No We Can’t, but attributing all or most of this to Obama is facile, part of the sleepwalking. The causes are far deeper and long term. Obama is an effect, not a cause. It is a confluence of the various causes and factors mentioned above and a few more which have produced a kind of perfect storm, which accounts for this sea change. What has changed is for sure a reduction in relative American capacity as a result of the various factors mentioned above, coupled with a change in its sense of capacity and self-understanding of its role. One has to be in denial to refuse to acknowledge that.

In an omnibus sense, political, military, economic and moral, we are witness to a reduction of American global authoritativeness. Like a growing child, the world, the populations of the world included, has discovered that the ‘father figure’ is just not so strong, not so rich, not so right and not so determined. And critically, in a variety of subtle ways, America has discovered that too.

The worst danger is not that at the moment of truth America will abandon the likes of Poland or Taiwan – though the fact that this possibility is discussed even in the most

authoritative corners is in itself part of the phenomenon I am describing. The decline of American global authoritativeness, its formidable constraining and restraining power, invites salami-fashion encroachment on world values, interests and stability by large actors and small. A slice here, a slice there, none so severe to pull the sword out of its sheath, and thus feeding the appetite. And suddenly one finds oneself in a situation where not even a slice, but a mere sliver, a meaningless assassination of a meaningless Archduke, is sufficient to ignite a conflagration serving the values and interests of none. This is the huge cost we all risk for this demise of the *Pax Americana*. For good or bad we are no longer able to nest underneath it, a sombre thought not only when we consider catastrophic scenarios but also the far more insidious dynamic which leads to such.

For Europe this means that the basic, unstated assumptions of European security thinking have moved from reality to self-delusion. For some this might be a relief. Some would see this as a window to a better world. One may pray that such would be the outcome. There can be a robust debate on how the vacuum may be filled. But sleepwalking is no answer at all.

## After Gaza 2014: Schabas

In the face of the heart-rending loss and injury of civilian life, including children, in the recent Gaza conflagration, it was neither unexpected nor inappropriate for the UN Rights Council to announce on 23 July 2014 that it was to launch 'an independent inquiry to investigate purported violations of international humanitarian law and human rights laws in the Occupied Palestinian Territory, including East Jerusalem'.

People hold very strong views on the rights and wrongs of the Israeli-Palestinian conflict. Articles in *EJIL* dealing with this topic are always amongst the most downloaded. Passions run high, tempers flare, intemperate language is used. When such is translated into legal writing there is, with some exceptions, a tendency whereby the author's political and moral views on the conflict translate almost linearly into legal conclusions. I say this with the experience of 25 years on the Board of Editors of *EJIL*. This is not necessarily an indictment of bad faith or an accusation of 'brief writing' disguised as scholarship. One of the least contested insights of Legal Realism is the manner in which our normative sensibilities and sensitivities condition the very way we experience both facts and the law. But there is plenty of barely disguised lawfare too. Given our own scholarly mission and our belief, mocked by some, that the search for objective legal evaluation is a worthy, if at times Sisyphean, endeavour, we have often 'balanced' things out by encouraging debate and reaction pieces. This predates my tenure as Editor-in-Chief. Those with a long memory will recall the exchange between Francis Boyle and James Crawford on the 1988 Palestinian Declaration of Independence in one of our earliest issues.

One is typically blind to one's own shortcomings. Personally I take some measure of comfort from the fact that my occasional legal writings on the conflict are regularly criticized, always with passion, by partisans on one or the other side of the conflict, most recently in our own *EJIL*: Talk! in response to comments I made on the Levy Report.

Be that as it may, when the firing and killing cease and judicial inquiry takes over it is in the interest of justice and the credibility of the bodies who administer it to adopt

those other idioms of the law – dispassionate, ‘blind’, fair – and to heed the wisdom of justice needing not only to be done but to be seen to be done.

It is, thus, appropriate that the UN Rights Council speaks of an ‘independent’ inquiry to investigate ‘purported’ violations of IHL and HR. So it should be.

The Council in the same meeting condemned in the strongest terms ‘widespread, systematic and gross violations of international human rights and fundamental freedoms’ perpetrated by Israel in the conduct of hostilities. It serves neither the interests of justice nor the credibility of the bodies charged in administering such to reach these categorical conclusions before the body set up, in the same breath, to investigate purported violations has investigated and reported. Careful factual and legal analyses are needed before any definitive conclusions may be reached. One might think that the appointing body, already sticking the arrow and drawing the target around it, may put undue pressure on the independent investigating body to reach certain conclusions. Even if these were the views of Members of the Council, they should have been withheld when the Council, a political body, exercised its investigative and judicial authority. The dissonance jars and is compromising. The same is true for the failure of the Council explicitly to make Hamas, the effective government of Gaza, alongside Israel an object for investigating purported violations of IHL and HR.

In fairness, the resolution was far from unanimous, with a large body of Western countries abstaining.

Which brings us to the appointment of Professor William Schabas. Schabas has perfect professional credentials for membership; he is a distinguished and justly influential scholar in the field. I know him to be an entirely honourable person of impeccable integrity.

But once his statement, albeit in another context, emerged, available on Youtube, that ‘Netanyahu would be his favourite to be in the dock of the ICC’, I believe the only right thing was to recuse himself and step down.

I do not say this lightly, and saying this does not detract in any way from my laudatory comments about Schabas above. In this instance, the appointing body, in setting up the independent inquiry, specifically stated that the Commission was not only to explore purported violations of the law but to identify those responsible. Ms Pillay spoke in this context of the need to ‘end the culture of impunity’. Netanyahu is Prime Minister of Israel and in his public statements has not, to his credit, tried to shift any responsibilities for the actions in Gaza to, say, the military. He could well be, in legalese, a target of investigation by the Commission.

Article 4 of the Code of Ethics of the ICC addresses the issue of impartiality. The Commission to investigate Gaza 2014 appointed by the UN Human Rights Council is not the ICC, but given its quasi-judicial function I do not see any reason why the standards of impartiality should be different.

Article 4(1) provides as follows:

1. Judges shall be impartial and ensure the appearance of impartiality in the discharge of their judicial functions.

The impartiality of Professor Schabas has been called into question in the light of an answer he gave to the Netanyahu comment. He explained, if press reports are to be



trusted, that it was a comment made in view of the findings of the Goldstone Report. It has been pointed out that Netanyahu was in the Opposition during the Cast Lead operation and would have had *ipso facto* and *ipso jure* no responsibility for any findings in the Goldstone Report – a fact which could point to unacceptable animus by Schabas. There is another Youtube video in which Professor Schabas addresses Netanyahu in derogatory terms, again cited as indicating animus. I express no position on this.

But it is hard for me to accept that his pronouncement on Netanyahu as being his favourite to be in the dock of the ICC – regardless of the context of the comment – is consistent with ensuring ‘the appearance of impartiality’. That very question – whether there is evidence to indict Netanyahu for violation of international criminal law, might, directly or indirectly, be before the Commission. In my view, this is a self-evident case where an appearance of impartiality might be created. For the Commissioner, the UN Council, the Commission of Inquiry and William Schabas himself to dig in is, in my view, unwise and counterproductive. When the appearance of justice is compromised, so is justice itself.

## Peer Review Redux

A word on the continuing crisis in peer review. *EJIL* is committed to upholding the highest standard of peer review, both as a guarantee of the quality of articles we publish and because we are aware of its importance to authors who are seeking appointment or promotion. As previously explained – see my earlier Editorial, in vol. 23, issue 2 – it is increasingly difficult to find external referees who both meet our yardstick of excellence and are willing to give time to this selfless service. I wrote then that it was not infrequently the case that the first and second and even the third external referee to whom we turned would decline our invitation, whilst the unfortunate author, not unreasonably, became incensed at the length of time taken to reach a decision. Since then, we have on occasion had the experience of having six or seven potential reviewers decline before securing one who is willing to take up the task! And then of course more time passes while we wait for the review to be turned around ...

These are egregious cases. The vast majority of reviews are, thankfully, completed on time and decisions made on manuscripts within a reasonable timeframe. We are grateful for the sterling services of our reviewers, some of whom we call upon regularly. We now acknowledge them in our annual Roll of Honour (published in the first issue of each volume) and offer them a free one-year online subscription to the Journal as a token of our appreciation. We welcome other suggestions to improve our review procedures while maintaining their integrity. In the meantime, we beg our authors to be patient with the process.

## In this Issue

This issue offers another abundance of pioneering scholarship in diverse aspects of international law. It opens with an article by Jan Klabbers that traces the emergence of the

now-orthodox functionalist theory in international institutional law, finding its origins in ‘an encounter with colonial administration’, and specifically in the early 20th-century writings of the American political scientist Paul Reinsch. In her article, Michelle Leanne Burgis-Kasthala likewise engages with important post-colonial themes in critical international law scholarship, but does so through a methodologically innovative ethnographic study of statehood narratives among Palestinians working in international law and human rights. Next, Mark Chinen urges a reconsideration of the law of state responsibility in light of complexity theory. An article by Joost Pauwelyn, Ramses A. Wessel and Jan Wouters follows, examining the stagnation of formal international law, assessing the reasons for the rise of more informal forms of international lawmaking, and considering a range of possible responses. In our *EJIL: Debate!* section, Mónica García-Salmones Rovira examines the ‘turn to interests’ shaping positivist international legal theory, as exemplified in the writings of Lassa Oppenheim and Hans Kelsen. A Reply by Jörg Kammerhofer contests the centrality of ‘interests’ in the work of Kelsen, as well as the methodology employed to discover it, and is followed by a Rejoinder by García-Salmones Rovira.

In *Roaming Charges – Moments of Dignity*, we feature a photograph entitled *Keepers of the Sultan’s Treasures*, shot in Brunei’s Regalia Museum.

Another important entry in our occasional series, *The European Tradition in International Law*, focuses on the Russian/Estonian jurist F. F. Martens. Lauri Malksöo provides an overview of Martens’ life, thought, and reception in international legal scholarship. Rein Müllerson draws parallels between issues in Martens’ time and our own. Rotem Giladi offers an original, critical reading of Martens’ most signal contribution, the clause to which he gave his name. And Andreas Müller examines Martens’ doctoral thesis on ‘The Office of Consul and Consular Jurisdiction in the East’, in light of the 19th-century dichotomy of civilized and non-civilized nations.

Under our rubric *Critical Review of International Governance*, Shashank Kumar and Cecily Rose present a quantitative empirical study of lawyers appearing before the ICJ. I take this opportunity to do the unusual and remind you of a piece in the previous issue, 25:2, Sergio Puig’s sociological analysis of investment arbitrators. You may have skipped it thinking you are not interested in investment. Think again.

The *Last Page* in this issue presents a poem entitled Vietnam, by Keith Ekiss.

Often, in ‘curating’ an issue (that is decidedly how we think of this part of our job) we know that the articles included will attract different constituencies depending on varying specializations and interests. We try to balance doctrine and theory, the systemic and the esoteric precisely to achieve such an effect. We resist the practice of consigning trade or investment or international criminal law to some of the excellent specialized journals in those fields. Our self-understanding of *EJIL* as a generalist journal of international law is capacious and catholic. Occasionally we draw your attention, explicitly or by hint, to an article we believe to be of more general interest, which transcends any specialization. This issue is one of those occasions where we think every single contribution – articles, debates, critical reviews – will be of interest to all our readers regardless of specialization. Enjoy, learn, become wiser!

JHHW\*\*

\*\* The views expressed here are personal to the Editor-in-Chief and do not reflect the official position of either the *European Journal of International Law* or the European University Institute.