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EJIL *Editors' Choice of Books 2016*

As is now our custom, our Book Review Editor, Isabel Feichtner, invited the *EJIL* Board members to reflect on the books that had a significant impact on them during the past year. Their contributions, posted on EJIL: Talk!, were met with interest and curiosity. In the following pieces André Nollkaemper, Jan Klabbers and Jean d'Aspremont write about the books that they read or reread in 2016 and which they found inspiring, enjoyable or even 'must reads' for their own work or international law scholarship in general.

André Nollkaemper: On the Fringes of International Law

The five titles on my 2016 list of books relate to international law in very different ways. What they have in common is that they are not so much concerned with the substance of international law, but rather with questions relating to its emergence and practical implications. Sometimes books that hardly use the language of international law can be most illuminating for international lawyers.

Peter Wadhams, *A Farewell to Ice. A Report from the Arctic* (Allen Lane, 2016)

Peter Wadhams' *A Farewell to Ice* masterfully shows how the liberties of international law impact on climate change and result in a thinning and retreating of polar ice with frightening speed and consequences. Wadhams, a polar researcher in Cambridge, notes that 'we have created an ocean where there was once an ice sheet' and that this is '[m]an's first major achievement in reshaping the face of his planet'. Wadhams pictures a particularly gloomy scenario for 2035, by which time the Arctic seabeds – permafrost from the last ice age – will have melted and released massive methane plumes that are over 20 times more effective in raising global temperature than all the CO_2 we have focused on. The book sketches powerful images of floods, fires, droughts, storms, and inundation of low-lying areas, with dramatic consequences for human habitation and lives. While international law has facilitated and legitimized the policies leading to these consequences, Wadhams vests some hope in international law; he sees the Paris Agreement as a sign of a common will to act. Yet, much more is needed to avert the possibly tragic consequences of climate change – mainly research and investment in new technologies (wind, wave, solar, tidal and nuclear energy) need to be incentivized. Post-US elections, this does not make for happy reading, but one that is needed to compel us to action.

Christina Lamb, *Farewell Kabul: From Afghanistan to a More Dangerous World* (Harper Collins, 2015)

A quite different, yet equally sombre assessment of the result of international policies, is Christina Lamb's *Farewell Kabul: From Afghanistan to a More Dangerous World*. This is a war journal in the best sense of the term, reflecting more than 25 years of reporting experience in the region. The book provides a very sobering account of the post-9/11 military adventures of the United States and its allies. Much has been written on why and how international law should be construed so as to allow for such attacks on 'non-state actors'. This book displays the total mismatch between the policy ambitions underlying this liberal reading of international law and the actual results. The initial aim of the attacks (rooting out terrorism) was never accomplished. Multiple new aims were formulated, with ever less clear legal bases and with equally little success. The book provides a compelling case-study of ill-conceived attempts to build democracy and the rule of law and to strengthen women's rights; objectives that moreover failed to connect to the interests of the local population – who above all hoped for security and food. Lamb connects the larger implications. Afghanistan led to Iraq, Iraq led to ISIS, and all the previous failures led to inaction in Syria. It is a must-read for those international lawyers who plead, with noble intentions, for a liberal construction of international law so as to allow for foreign interventions.

Rossana Deplano, *The Strategic Use of International Law by the United Nations Security Council – An Empirical Study* (Springer, 2015)

Much closer to international law is Rossana Deplano's *The Strategic Use of International Law by the United Nations Security Council – An Empirical Study*. This book is not without shortcomings, but deserves a place on this list as it is an all too rare attempt to bring empirical legal studies to international law. In 2016 the dominant features of international law were still doctrinal, normative, critical, historical, and theoretical. Empirical inquiries into what international law accomplishes in practice remain rare. Deplano supplements the many doctrinal studies on the Security Council with an empirical study that seeks to establish the extent to which, if any, international law is able to limit the discretionary powers of the SC, and how the practices of the Council contribute to the development of international law. The study demonstrates the bias of the SC towards international terrorism and protection of women, children and civilians, and its ignorance of other issues. The book also shows the benefit of combining empirical with normative work in international law, as it uses the data to propose a new theory of self-imposed duties in a few areas, which 'may redefine the very idea of international peace and security'. Parts of the study remain somewhat flat, but overall the book definitively sets out a path worth following.

David Sloss, *The Death of Treaty Supremacy. An Invisible Constitutional Change* (Oxford University Press, 2016)

A more traditional volume is David Sloss' *The Death of Treaty Supremacy. An Invisible Constitutional Change*. The book tells a powerful story of constitutional law changes

through practice, and of how written constitutional law can mislead ignorant observers. Every student who tries to understand the complex relations between international law and domestic law in the US will start with Article VI of the US Constitution, proclaiming that 'all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby'. While there was a time when this provision actually governed and explained practice, few provisions could leave one more ill-prepared for an understanding of the role of treaties in the US legal system. The book details how, without formal amendment, in practice major limits were imposed on the actual effect of treaties, most of all in the form of the non-self-executing treaties doctrine. This constitutional change reflected a political struggle, triggered by a 1950 decision of a California court to use the human rights provisions of the UN Charter to invalidate a state law that discriminated against Japanese nationals. While amendments that sought to prevent such rulings were proposed but never passed, the supporters of change achieved their goals through *de facto* constitutional change, with the result that state governments are allowed to violate treaty obligations, including international human rights obligations. The larger message is that to understand how international law does or does not constrain national policy requires much more than a cursory look at formal provisions, and that one needs to understand the domestic politics that inform the actual application of such rules.

Philippe Sands, *East West Street. On the Origins of Genocide and Crimes Against Humanity* (Knopf, 2016)

Finally, there is Philippe Sands' masterful *East West Street*. I will not be the only one to include the book in their list of favorites, but the book deserves multiple praise. The power of the book is above all its evocation of the personal stories that propel international law. The concepts of 'crimes against humanity' and 'genocide' are not concepts that are 'out there', waiting to be applied, but were conceived, developed and applied by individuals with a personal stake and with personal ambitions. Set in the city of Lviv, Sands reconstructs the stories of Lemkin and Lauterpacht, who lived and studied in this city with its history of extermination of Jews. Along separate paths, they contributed to the development of the concepts of genocide and crimes against humanity, to connect again at the Nurnberg trials. What makes the book particularly enthralling is that it links the personal stories of Lauterpacht and Lemkin with that of Sands' grandparents. *East West Street* drives home how personal histories matter in the development of the law – and how they can result in exceptional scholarship.

Jan Klabbers: On Politics and Ethics and Love

Alice Kaplan, *The Collaborator: The Trial and Execution of Robert Brasillach* (The University of Chicago Press, 2000)

Aristotle already knew that people are political animals. Yet, he also realized that people are ethical beings, and for him, there was no necessary conflict between the two: the ethically flourishing person was one who was intensely and seriously political. In

our days, however, that understanding has all but disappeared, with much political debate collapsing into partisan positions where it is considered more important to keep the ranks closed and emerge victorious over opponents than it is to do the right thing or somehow find a decent compromise. Whether on debates within Britain on membership of the EU, whether in US presidential elections, or whether in discussions in the 'Comments' section on *EJIL: Talk!*, political debate is rarely genuine these days.

This is one reason why the story of Robert Brasillach is so interesting, and it is told extremely well in Alice Kaplan's *The Collaborator*. Brasillach was a young French novelist, strongly drawn to Nazism before and during World War II. He collaborated seriously with the Nazis – so much so, that he would urge them not to forget to send children to the gas chambers. Not surprisingly, after the war he was prosecuted and found guilty of collaboration, and sentenced to death. At this point some people started a campaign to commute the death sentence and, again not surprisingly, many on the political left in post-war French refused to sign up.

The surprising thing, however, is that one of the signatories of the petition to commute the death sentence was Albert Camus, who had become famous as a novelist, playwright and a resistance authority during the war, and was politically about as far removed from Brasillach as was humanly possible. There may have been many personal reasons for Camus' decision to sign the petition (he had a visceral repulsion for the death penalty, among others), but the story also suggests something about the connection between ethics and politics that we have lost track of. Camus, here as on other occasions, refused to be a fellow traveller; he made up his own mind, and let his political action be guided not by considerations of electoral or popular support, and not by toeing the party line, but by his own thought –and it is at least possible to argue that what made him such an influential figure was precisely his ethical stance.

Kaplan pays relatively little attention to Camus' attitude in the matter;[1] instead, she writes with empathy, understanding and yet firm judgment the story of Brasillach's life, how he came to be a Nazi, the relationship between prosecutor and defence lawyer, and what happened after the war. Kaplan's is a fine story, eminently readable, but it is also more than that: through the lens of focusing on a single individual, she captures an entire nation and its ambivalence towards good and evil, and she tells a story that should resonate today.

Andrés Rigo Sureda, *International Investment Arbitration: Judging under Uncertainty* (Cambridge University Press, 2012)

One of the books from which I learned most this year was the short set of Lauterpacht lectures given by Andrés Rigo Sureda a few years ago on bilateral investment treaties. Partly this is, of course, simply because I did not know too much about investment law to begin with, but partly it is also because of Rigo Sureda's handling of the topic. His focus rests on the uncertainty of large chunks

[1] Not out of lack of interest though: she later wrote the Introduction to Camus' *Algerian Chronicles* (2013), where the same blend of ethics and politics comes out. I have discussed this elsewhere in greater detail: see Klabbers, 'The Passion and the Spirit: Albert Camus as Moral Politician', 1 *European Papers* (2016) 13.

of investment law, which is as much subject to political considerations as anything else. In doing so, Rigo Sureda (formerly of the World Bank, and hitherto known to me predominantly as the author of one of the classic studies on self-determination) has wise words to say on such topics as interpretation and the triangular legal structure of investment treaties. And he does so with great economy, in less than 150 pages.

Raimond Gaita, *A Common Humanity: Thinking about Love and Truth and Justice* (Routledge, 2000)

Highly inspirational is Raimond Gaita's *A Common Humanity: Thinking about Love and Truth and Justice*. Gaita is an Australian moral philosopher, and his book is a set of meditations on a variety of topics, ranging from genocide to university education and much, much else besides. Gaita is difficult to pigeonhole: he is not a consequentialist (and he has some well-chosen words for his consequentialist compatriot Peter Singer) and is highly critical of Kantian ethics as well, in particular its undergirding rationalism. One of the themes running through the book is that of preciousness: if we all treat each other as precious (rather than as fellow rational beings, or in terms of dignity), then the world might actually become a decent place. And I was particularly pleased to see him remark that inspirational teaching owes something to love: love of the topic, and love of the profession. This is something you cannot achieve with a set of slides and a syllabus of pre-assigned readings, and something you cannot fake by means of adopting a public persona. Gaita does not, sensibly, exclude the possibility that one can be a good teacher without love of the topic, but is sceptical about the possibility of being inspirational without love – and somehow that sounds just about right. Gaita's book is, in many respects, a bit unorthodox: even as produced it departs from the regular format (smaller than most academic books, almost pocket-sized). It is also, for a tract on moral philosophy, remarkably accessibly written, even if not structured as a classic and systematic study. And note the subtitle, with its comma-less enumeration. Somehow, all this captures the spirit of the book very well: a set of meditations, loosely yet intimately connected, to keep returning to.

Neil Walker, *Intimations of Global Law* (Cambridge University Press, 2014)

The final academic work on my list this year is Neil Walker's *Intimations of Global Law*. The book's main purpose is to try and make some sense of all the parallel discussions going on involving such concepts and ideas as global constitutionalism, transnational law, global administrative law, and global governance. All have their adherents, but few can meaningfully describe what they mean. Walker's insightful move now is to take the discussion to a different level of analysis, discussing these different ideas and concepts as manifestations of two broad approaches, (convergence-promoting on the one hand, divergence-accommodating on the other), actually making some sense of the similarities and distinctions between them and often highlighting the politics behind them.

In a sense, Walker's move – shifting the level of analysis to a higher terrain – is a classic move, and much utilized in critical legal scholarship in order to survey and criticize the terrain underneath. What sets Walker apart, though, from much critical scholarship is that his is not limited to being an intellectual exercise, pointing out internal contradictions perhaps accompanied by a vague and nondescript plea to change track. Rather, it also contains a serious engagement with global law, following the intuition that this is something that will not go away, and that the lawyerly discipline will need to come to terms with it if it wishes to continue to play a meaningful role in social relations. And law, so Walker suggests without spelling it out, is too important a cultural artefact to just have it be replaced by something else – it comes (potentially, at any rate) with safeguards (e.g., about participation) that its alternatives lack.

Kees van Beijnum, *De offers* (De Bezige Bij, 2014)

Bert Röling, the Dutch judge at the Tokyo Tribunal in the late 1940s, must be one of the very few international lawyers to whom novels are devoted.[2] He played a small and rather caricatured cameo in one of the classic Dutch novels, W.F. Hermans' *Onder professoren* ('Amongst Professors', published in 1975), but is one of the main characters in Kees van Beijnum's wonderful *De offers* ('The Sacrifices').[3] *De offers* tells the story of a more or less fictional Dutch judge at the Tokyo Tribunal, whose main hobbies include playing tennis and playing the piano, and who otherwise is nearly indistinguishable from Röling – one of the few main differences I have been able to spot with the real Röling is that the latter taught at Utrecht University before being sent to Tokyo, whereas the fictional judge (Judge Brink) taught at Leiden University – perhaps a cruel joke on the part of the author.[4]

The book is partly about Brink's ethical dilemma in global politics: he recognized the political nature of the Tokyo trials, and was reluctant to cooperate and find defendants guilty of crimes against peace which, he felt, were not criminal when the war started. Moreover, he felt that it was too simple to hold Japanese political leaders responsible just for having been government members during the war – at the very least, one should wonder whether they did not actively try to exercise damage control.

But the book is about much, much more. The two other protagonists are Michiko, Judge Brink's lover with whom he has an extra-marital son, and Michiko's cousin Hideki, who served in the Japanese army in China and returned as an invalid. Through them, Van Beijnum weaves a story of betrayal and loyalty and love, and passion and opportunism and revenge, touching upon such great political topics as war and peace, decolonization, and reconstruction, but also the microcosmic human aspects. Heartbreaking is the passage where Michiko meets her elderly former neighbour after

[2] The only other example that immediately comes to mind is F.F. de Martens, the protagonist in Jaan Kross, *Professor Martens' Departure* (1984). Perhaps something for a pop quiz on *EJIL: Talk!*?

[3] Thanks to Nico Schrijver for bringing it to my attention.

[4] In fact, the story goes that Röling's contrarian attitude may be partly what cost him the professorship in Leiden, with the Dutch foreign policy establishment disapproving of his behaviour in Tokyo as well as his condemnation of Dutch colonial policies. Hence, he spent most of his academic career at Groningen University, far away from the corridors of power. See further the biographical account written by his son Hugo Röling, *De rechter die geen ontzag had* ('The irreverent judge', 2014).

the war, with both having lost their immediate families and their homes and pretty much everything else, and yet both suggesting that they are the lucky ones. Van Beijnum moreover (and this is a major feat) manages to evoke Japan in his writing style which, at its best, is reminiscent of the great Yasunari Kawabata.

Perhaps most tantalizingly, Van Beijnum suggests that ethical demands are strongly situational and that unity of the virtues (a very Aristotelian point) is oh so difficult to achieve: Judge Brink ends up, one could say, doing justice (however ineffectual) to the accused in Tokyo, but not to Michiko, not to their son, and not to Hideki, and not to his wife and children back in Holland either. There can clearly be considerable ethical tensions between the public and private persona, as Camus' life also illustrates. But merely toeing the party line is never a solution.

Jean d'Aspremont: The Odds Are There to Beat

Every year, when we as Editors of *EJIL* conduct the retrospective (and somewhat introspective) exercise of looking back at the books we have read over the previous 12 months, I find myself bewildered by the imbalance between the rather modest number of books I have perused and the huge number of articles I have thoroughly digested. It seems that, in my own practice of consuming legal scholarship, the number of pages of legal literature I read in scholarly books is not commensurate with the substantially higher number of pages of journal articles. Although I am short of empirical data relating to such patterns of behaviour, I surmise that this may be a widespread reading practice among international lawyers. My feeling is that international lawyers read articles – not to mention blog posts and tweets – by the hundreds while seriously reading only a dozen books each year. This disproportion is not alleviated by the fact, already highlighted by Sarah Nouwen last year, that we actually read very few books cover to cover.

This imbalance warrants some attention as I do not think international lawyers' substantially higher consumption of article-based legal scholarship over book-based literature can be explained solely by size. After all, many books nowadays are rather thin – which, in some respects, is a good thing! – and many articles, especially in the Anglo-American tradition, are rather lengthy – which, in some other respects, is regrettable. I also suspect that the imbalance between books and articles in the reading practice of international lawyers has not always been so great. I would guess that there were times when the legal literature read by international lawyers was more or less evenly spread between books and journal articles, not to mention the pre-periodical era when scholarship was exclusively found in books.

I am tempted to ascribe the pattern of reading behaviour described above to a series of very practical parameters. First, the accessibility of journal articles, whether through open access databases (SSRN, academia.edu, etc) or through the online platforms of the main publishers is most probably instrumental in their dominance as a container of legal literature. Second, it is likely that the portability of journal articles and the extent to which they are easily read on a tablet or folded in a laptop case bear upon their success as well. In that sense, being more accessible – at least in the more

affluent parts of the world – and more portable, journal articles would seem to be a more convenient container of scholarship, especially for those international lawyers who are often on the road or in the air. Thirdly, and probably most importantly, the imbalance between books and articles in the reading practice of international lawyers may reflect the very configuration of the profession of international legal academics. Indeed, it may be that the growing diversity of tasks assigned to (there are days I would say 'dumped on') 21st-century academics makes the reading of journal articles much easier to accommodate. Often a one-hour lull between meetings or lectures, a one-hour flight, a one-hour escape to a coffee place, or simply a rainy Sunday afternoon suffices to seriously make one's way through an article. In my view, the profession as a whole is organized in a way that is favourable to the consumption of scholarly articles rather than books, and this was not always the case. Whether extracting scholarship and inspiration from articles rather than books is conducive to better intellectual self-development and better scholarship is of course open to question, a question that does not need to be taken on here. It remains, however, that, for all sorts of reasons, books remain cherished and their publication continues to be highly regarded. And this is probably why the exercise carried out here is dear to *EJIL*.

This year, I have selected three books, two books in French and one book in English. Since what I make of these books inevitably hinges on the project(s) in which I was engaged at the time of their reading, mention is made, as much as possible, of the backdrop against which the reading was conducted.

Fuad Zarbiyev, *Le Discours interprétatif en droit international contemporain* (Bruylant, 2015)

The treatment of interpretation in international legal scholarship often collapses into either dogmatic and mechanical 'rulism' (i.e. the reification of the rules on interpretation and the idealization of their constraining power) or some crude cynicism (i.e. the denial of the constraints born by the rules on interpretation and the demotion of Article 31 of the Vienna Convention to an Airport Luggage Wrapping Machine). In this context, Fuad Zarbiyev's work stands out as one of the rare truly theoretical studies of the phenomenon of interpretation in international law. It comes, together with works like those of Bianchi or Venzke, to offset the dearth of theoretical engagement with hermeneutics in international legal scholarship. Zarbiyev interestingly ascribes the theoretical *nonchalance* of international lawyers to the Vienna Convention on the Law of Treaties, which seems to have provided them with a comfort zone within which it is no longer necessary to engage with the theoretical questions of interpretation, not even the abiding question of the interpretation of the rules on interpretation themselves. By Zarbiyev's account, the Vienna Convention is the culprit for this 'relachement de la pensée critique' (at 13). Zarbiyev provides a genealogical account of the design of the modes of interpretation as they have come to be known and practised today, reviewing the successive interventions in the shaping thereof by a great number of actors over the centuries (e.g. Grotius, Pufendorf, Wolff, Vattel, the Institut de Droit international, the

International Law Commission). By virtue of a discussion that shows great mastery of critical works but also of literary philosophy (Derrida, Bourdieu, Ricoeur, Fish, etc), and explicitly inspired by Nietzsche's philosophy with a hammer, Zarbiyev goes after some of the main contemporary presuppositions of international lawyers in terms of hermeneutics. After completing the reading of his remarkable study, there is barely anything left of the textualism allegedly promoted by the Vienna Convention on the Law of Treaties and cultivated by the International Court of Justice. The fetishism towards judges that commonly accompanies international lawyers' hermeneutic practice – to an extent unheard of in domestic systems according to Zarbiyev – is similarly dealt a lethal blow. Both of these two common patterns of international legal discourses are simply torn to pieces. Last but not least, Zarbiyev's work is a model and deserves praise for the confidence and diligence with which it assembles a conceptual and analytical framework of its own by borrowing from a wide variety of traditions of legal thought and social sciences, without feeling the need to show membership of a specific tradition or school of thought or any fear of incommensurability. In building his conceptual and evaluative framework, Zarbiyev shows that international lawyers should not necessarily perceive themselves as prisoners of one single school or package of methods and that they can simply cherry pick. Zarbiyev demonstrates that we can compose our own evaluative tools outside all the methodological packages currently on offer – and recognized – in international legal scholarship. In doing so, Zarbiyev helps us understand that the much celebrated notion of methodological consistency is overrated, also reminding us of the kinship between theory and methodology. The result is a solid and original set of methodological choices which, interestingly, shares with Fish an emphasis on the interpreter. In composing his conceptual framework, Fuad Zarbiyev incidentally reminds international lawyers that the paternity of the notion of 'interpretive community – so popular among international lawyers – does not lie with Stanley Fish but with Josiah Royce, who introduced it in his work on the Christian religion (J. Royce, *The Problems of Christianity*, New York, Macmillan Company, 1914).

François Ost, *Raconter la Loi. Aux Sources de l'Imaginaire Juridique* (Odile Jacob, 2004)

In his study of the imaginary of law, François Ost revisits the way in which some key myths of Western culture (the episode of the Sinai and the Exile, Agamemnon, Antigone, Robinson Crusoe, Faust, etc.) have treated law as an idea or an institution, thereby astutely bridging the study of myths and legal theory. Thanks to his well-known literary erudition, the author perceptively narrates those stories that have shaped the culture of many international lawyers in the Western world and, hence, sheds light on how the mythical treatment of law may still inform our contemporary understanding thereof. Approaching Ost's work in relation to my current exploration of the belief system at work in international legal thought and practice and the centrality of self-referentiality in legal reasoning, my attention was drawn to two specific

features of the myths examined in this book. First, I was struck, not by the extent to which self-referentiality – understood as one's invention of one's own origins – is central to the very structure of myths, but more by the disdain with which these (self-referential) myths treat the self-referentiality of law. This is well-illustrated by Ost's discussion of the casting of the Golden Calf construed as a contract without law that cannot not constitute law proper. In most Western myths, law thus appears as thought outside self-referentiality. Whilst I believe law – and international law – must invent their own origin to uphold their claim to authority and cannot work without self-referentiality, it is not surprising that self-referentiality in law, even in Western mythology, is constantly obfuscated. To produce its thrust, self-referentiality cannot reveal itself. Second, my attention was drawn to Ost's accounts of the constant re-writing process of myths over time; such rewriting often going as far as unwriting, i.e. a re-writing that turns the myth on its head and reverses the politics thereof. This phenomenon is not different from the constant re-writing of the main doctrines of international law and the adjustment of their politics. More interesting is Ost's contention that, even when myths are unwritten, such unwriting still occurs within the tradition of the original myth from which emancipation is not possible. McIntyre is of course in the air and it is very tempting to draw a parallel with the key doctrines of international law which are similarly perpetuated through writing, re-writing, and unwriting.

Thomas Schultz, *Transnational Legality. Stateless Law and International Arbitration* (Oxford University Press, 2014)

The relationship between international lawyers and theory has often made me think of the anxious attitude of French-speaking people toward foreign languages. Indeed, it is common for French speakers to dare to utter a few sentences only once they have the assurance that they have mastered 2000 words of the foreign language and run no risk of embarrassment. In my view, the same holds for international lawyers and legal theory, the latter having become the turf of a well-guarded club of mutually referencing scholars who are unrivalled in the sophistication of their language and their citations of esoteric works, thereby making all international lawyers feel like French-speakers trying to speak a foreign language.

Thomas Schultz's study appropriately signals that it is time for international legal scholars to cease being daunted by theory and grow confident and unashamed of using theoretical and jurisprudential tools. I accordingly mention this book here not because of the well-known erudition of its author and its informed contribution to the state of the knowledge on international arbitration but for its treatment of jurisprudential debates for the sake of self-reflection about a field that has long been wary of theory and self-reflection. It is true that, on substance, the book may be grappling with a slightly overblown phenomenon, i.e. the reduction of (international) law to state law. For my part, I have always thought of such an association as a straw man of convenience for self-declared reformists of international law. Yet, this is not the point I wish to debate here. In my view, Schultz's book is a very welcome attempt to disrupt a discipline, its modes of engagement as well as the way in which it distributes and organizes argumentative spaces and areas of expertise.

The valuable disruption brought about by Schultz can be summarized as follows. First, Schultz imports a theoretical apparatus into the scholarship on international dispute resolution, which had traditionally been marked by pragmatism, aversion to theory and judge fetishism. The author is very clear about his revolutionary ambitions and it is worth quoting him here:

> International arbitration, and more generally international dispute settlement, is commonly represented as a technical field, as a subject-matter that is all about procedural technicalities and black letter law intricacies. This must stop. We cannot shy away from our social responsibilities by taking refuge in the mechanics of the law. Dispute settlement, at heart, is anything but a dry, technical, mechanical field (p. 6).

Second, Thomas Schultz's work is subversive, not only in relation to the field of international dispute resolution but also vis-à-vis legal theorists themselves. Indeed, he attempts to vulgarize theory – something that someone of his stature can afford to do – and make it accessible to a much wider audience. This is a daunting but very laudable task. Legal theory is too important to remain inaccessible to the masses. Legal theory cannot be the privileged tool of thought of a small coterie whose members cite one another with a view to excluding others and preserving their monopoly. Most interestingly, Schultz uses jurisprudence without turning his book into a jurisprudential work. This means that he ingeniously falls short of a quest for the essence of law and its attributes, but rather resorts to jurisprudence for the sake of self-reflection. If there is a future for the use of jurisprudence in international legal thought, it must be somewhere along the trail blazed by Schultz in his book on statelessness in international arbitration.

One final remark is warranted. The enthusiasm voiced in these lines for the type of disruptive projects attempted by Schultz is not oblivious of the obstacles that such audacity will necessarily come up against. The aversion of Schultz' colleagues for anything that is not meant to be practical or does not emanate from a judge should not be underestimated, just like the defensive tactics of theorists to salvage their monopoly. Yet, in scholarship, success probably matters less than the attempt. At the end of the day, the odds are there to beat and one can only welcome exercises of disruption whose formative value should never be underestimated.