
Editorial

Editorial: The Case for a Kinder, Gentler Brexit; 10 Good Reads; Vital Statistics; In Memoriam: Vera Gowlland-Debbas; In this Issue

The Case for a Kinder, Gentler Brexit

Of course, we know better than to be shooting at each other; but the post-23 June relationship between the United Kingdom and the European Union is woefully belligerent, and increasingly so. In tone and mood, diplomatic niceties are barely maintained and in content positions seem to be hardening. I am mostly concerned with attitudes and positions of and within the Union and its 27 remaining Member States. Handling Brexit cannot be dissociated from the handling of the broader challenges facing the Union. I will readily accept that the UK leadership bears considerable responsibility for the belligerence and the escalating lawfare. But the inequality of arms so strikingly favours the Union that its attitude and policies can afford a certain magnanimous disregard of ongoing British provocations.

It is easy to understand European Union frustration with the UK. I want to list three – the first being an understandable human reaction. It is clear that when Cameron called for a renegotiation followed by a referendum he had no clue what it was he wanted and needed to renegotiate. The Union waited patiently for months to receive his list – the insignificance of which, when it did come, was breathtaking. For ‘this’ one was willing to risk breaking up the Union and perhaps the UK? I recall Jean-Claude Juncker’s *State of the Union of 2015* in which going the extra mile in preventing a Brexit was one of his top priorities. Any fair-minded observer would agree that the Union delivered on this commitment. Some of us even thought that the eventual compromise on free movement went beyond the boundaries of extant EU law. The actual Brexit vote was thus greeted with understandable disappointment, to which a measure of bitterness and even anger were easy to detect in the myriad statements that followed. And then it also became abundantly clear, breathtakingly clear, that the UK went into the referendum without any strategic – political and legal – plan in the event of, well, Brexit. One did not know what the Brits wanted ahead of the referendum and one still is not clear what they want in its wake. It has been ongoing and at times incoherent improvisation – adding further to the already existing frustration. We tend to reify governments and administrations just as we reify courts. But when all is said and done, there are always humans with emotions and ambitions and desires and the usual frailties of the human condition.

Still, setting aside this kind of emotional state as the basis for, or even influencing, a Brexit strategy, it is well overdue. If the interest of the kids is really in one's mind, it behooves any divorcing couple to get as quickly as possible beyond the anger stage. In approaching Brexit the single consideration should be the overall interest of the Union and the underlying values of the European construct.

I take it as axiomatic that it is in the interest of the Union – economic, strategic (not least security) and even social – to have as amicable, open and cooperative a relationship with a post-Brexit UK. One cannot very justly express alarm and disapproval at the protectionist winds blowing from the White House and then not accept that, even if outside the Union, it is in our interest to keep as open a marketplace with such an important contiguous economy as the UK. Nor can one fail to realize that with the end of the Pax Americana, how damaging it would be for Europe, when finally beginning to take its security responsibilities seriously, not to be able to count on a robust participation of the UK. And beyond the money power matrices, the UK has to remain a firm ally in the defence of liberal democracy under attack. Not to mince words, a hostile Union will only further push the UK into an uneasy embrace with Trump.

What, then, from the Union's side – at the policy rather than the emotional level – seems to explain the bellicosity? There are two interconnected arguments which are repeated again and again in explaining and justifying the rhetoric of a 'hard' Brexit or 'Divorce before any negotiations' et cetera et cetera *ad nauseam* and *ad tedium*.

The first is that one cannot compromise the conceptual and practical coherence of the Single Market, of which free movement of workers is an indispensable and non-negotiable principle. (I consider as sad collateral damage the fact that the Brexit debate has returned the principle of free movement to its economic foundation – workers, factors of production in a common market – and away from its new citizenship grounding). And since the UK insists that it can no longer accept free movement, it cannot both have its cake and eat it. You cannot be in the Single Market without accepting its cardinal principles. There is an important additional nuance to this argument, namely that by taking a tough line with the UK one is squelching any heretics who would like to see the dilution of free movement within the Union.

The second – interconnected – reason for the tough rhetoric and the endless promises of a 'hard' Brexit is the 'discourage the others' argument. If the UK gets too cushy a deal – i.e. is not made to pay and to be seen to be paying a heavy price for Brexit – it might tempt other Member States to seek the same, thereby bringing about a weakening or even disintegration of the Union. The notion of some form of Associate Membership is thus rejected categorically.

I think the first argument is based on a misunderstanding and the second argument raises a profound issue that goes well beyond any Brexit strategy. It touches on what is sometimes thought of as the 'soul of the Union' – its very ontology – a clarification of which should at least provoke second thoughts as to the wisdom of the extant approach to Brexit.

It is clear that if the UK leaves the Union and rejects free movement it cannot be a full participant in the Single Market. But, it is worth making, again and again, the obvious distinction between *being part* of the Single Market and *having access* to the Single Market.

For decades, even before it was called the Single Market, it has been European policy that granting access to the Single Market to partners all over the world was an important objective, beneficial both to the Union and to such trading partners. The recent conclusion of CETA (Canada-EU Comprehensive Economic and Trade Agreement) is just the last, if very visible, manifestation of such a policy. The Union has countless agreements of this nature – the common denominator of which is the granting of access to the Single Market not only without requiring free movement of workers, but excluding such. In the case of developing countries the access has been at times on a non-reciprocal preferential basis, though with many partners (again using CETA as an example) it is on a fully reciprocal basis. It is true that for the most part the agreements relate to goods rather than services but the access is extensive nonetheless.

Why should the Union not announce, unilaterally, and as soon as possible, that it would be its desire that the UK have at a minimum an agreement granting it access to the Single Market on terms no less favourable than any of its existing reciprocal agreements with third parties? I can see several distinct advantages of such a declaration. First it would change the existing damaging, bellicose atmosphere and mood, which are not auspicious for an amicable divorce. Second, it would not compromise any European interest from a commercial perspective. And third, it would allow that aspect of the negotiations to be handed over to the technocrats – the devil is in the details! – while allowing the more sensitive issues such as financial services, passporting and the like to be dealt with at the political level.

In the same vein, just about all Member States of the Union have bilateral investment treaties with third parties, which typically give extensive access to company directors, etc. Is it thinkable that the UK should not have similar privileges? Why should the same ‘most favoured’ principle not be extended as regards these privileges accorded to third parties?

Negotiating from a position of power, such gestures of good will by the Union would not compromise its interests; rather they would facilitate the negotiations by setting at least minimal targets to be achieved in the negotiations and send an important signal that the period of anger is over and functional pragmatism is back.

What then of the ‘discourage the others’ argument? Here my views are decidedly iconoclastic but, I want to believe, at least merit a hearing.

The actual departure of the UK was not in my view the deepest harm inflicted by Brexit (thought of as a holistic set of events). The catastrophic damage to the Union was to grievously arrest the slow transformation of the European Construct from a community of convenience (concrete achievements leading to *de facto* solidarity) to a community of fate. By community of fate (and thankfully Isaiah Berlin re-Koshered Herders’ concept so abused by National Socialism) I mean the notion that whilst one can and should have deep divisions and conflicts within the Union as regards its policies, scope of action, methods of governance and the like, such divisions and conflicts have to be resolved within the framework of the Union, its Member States and their peoples being attached to each other indissolubly. The Exit option, a nod towards the residual sovereignty of the Member States (an indispensable nod, given that the very notion of high integration among sovereign states is the double helix of the European construct that differentiates it from Federal States) was always to remain the arm you

never use. Brexit discourse, spilling over from the UK debate to the whole of Europe, regressed the Union back to a contingent, ongoing project, the viability of which may be challenged at any moment, depending on a material balance of costs and benefits. Unwittingly, in an almost panicky knee-jerk reaction, European discourse became one of ‘we have to come up with projects that will prove to the peoples of Europe that it is in their interest to maintain the Union’. To remain. Even if successful in finding such projects, this is a self-defeating approach, because of its contingent, cost-benefit logic, on which the future of the Union is now to rest. As we saw in the British debate on Brexit and we see in current Euro-speak, this logic inevitably leads to the politics of fear. As the Brexit debate in Britain progressed it became increasingly one of who could scare their adversary more effectively. The ‘discourage the others’ argument in the current post-Brexit approach belongs to the same genus. Does one really want the future of European integration to rest on fear-driven support, scaring our peoples by setting up the UK as a reminder of the bad fate that awaits the heretics?

I cannot but think of millennial Christian doctrine – now abandoned – which held that the Jews should be kept as a miserable entity as a reminder of the fate of those who reject the Saviour. It was a betrayal of Christian ideals.

So, think now the unthinkable – an approach which would afford the UK as comfortable a status as possible, even a form of Associate Membership. It would still be a second-class membership; whatever access the UK would have to, say, the Single Market, would be to a marketplace the rules of which would be determined by others. This is a self-inflicted damage that the UK will have to live with.

Brexit is a watershed. So, I would argue, instead of trying to stick the finger in the dyke let us live the watershed. If a UK status is appealing to this or that Member State, let it be. Those states would not in any event be helpful in a Union which needs some brave and decisive fixes to its structure and processes, not least the structure and processes of governance. For those who remain, most if not all, it will be a moment of willed re-commitment rather than scared, coerced, resentful and contingent inertia.

10 Good Reads

As is my custom, I list 10 of the books I read during the last year which stood out and which I do not hesitate to recommend to our readers. The law books – seven in all – are actually all relatively recent. Though typically I list the books in no particular order, I make an exception this time for the first in the list, Philippe Sands’ *East West Street*.

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

East West Street is simply a must read; forgive the cliché for a book which is the opposite of cliché. It is both a Law Book and Book about the Law, as the subtitle indicates: *On the Origins of Genocide and Crimes Against Humanity*. But it is so much more. It has novel-like qualities (and a very fine novel at that) in weaving together the lives of its

various protagonists as well as being an altogether not kitschy personal roots exploration of the author, Philippe Sands himself. He is not only author but decidedly one of the protagonists. It is not exactly a page-turner – that would actually diminish the quality and achievement of Sands, but despite its considerable length, it is hard to put down. You will learn a lot, become wiser and be moved in more ways than one. Last year I sang the praise of Sebald. Sands' book has Sebald qualities and there is no higher praise in my evaluative vocabulary.

Mario Vargas Llosa, *Travesuras de la niña mala* (Alfaguara, 2006)

Travesuras de la niña mala by Nobel Prize winner Mario Vargas Llosa was an easy choice, even if I typically prefer his essayistic writing to his novels. It is a very traditional novel in style – which is one of its attractions. You will not be struggling with post-modernist experimentation, which is wonderful when it works (not often) and awful when it does not (frequently). The story begins with the first love of a 14 year-old (the dates, at least, correspond to Vargas Llosa's own time line). It is no less than marvellous the ability of a 70 year-old to describe with such delicate and empathetic precision the mental world of the young protagonist – *el niño bueno* – whose enduring love affair with the complex and compelling *niña mala* the novel tracks. Not a 'masterpiece' but a piece of wonderful writing by a master that will stick in your mind.

Patrick Pasture, *Imagining European Unity Since 1000 AD* (Palgrave Macmillan, 2015)

Imagining European Unity Since 1000 AD is an expensive book – and sadly so because it deserves to be much more widely read than will be the case with this price tag. Patrick Pasture combines history with historiography in a compelling narrative that has a strong critical, at times even acerbic, tint. It is learned, impressively so, without being boring for even a single page, and it is subversive since it shows the dark sides of the noble quest for peace – an inbuilt tendency of the integration project to suppress diversity and to dominate. The current circumstance of Europe gives it a particularly sharp edge. A good read.

Ricardo de Ángel Yágüez, *¿Es Bello el Derecho?* (Civitas, 2016)

¿Es Bello el Derecho? by Ricardo de Ángel Yágüez is the kind of book that one does not, even should not, read cover to cover in one gulp. It is a smorgasbord that one can savour not only from the author's own thoughtful reflections on the aesthetics of law but no less from his inspired and instructive anthology of academic and artistic illustrations of such. As a 'nomist' I have always seen the beauty of Nomos (as well as its

ugliness and insufferable boringness) in its content – otherwise how could you work your way through even one page of the 7000-page Talmud? As a common law lawyer I once referred to procedure as the poetry of the law, perverse as that may sound. There is much evidence in this book to show that I am not alone in such thinking. But I never contemplated a legal aesthetic in the manner we associate such with beaux arts. Well here is a correction to that.

Olivier Dupéré, *Constitution et droit international* (Institut Universitaire Varenne, 2016)

Books resulting from a *journée d'études*, this one taking place at the University of Bordeaux back in 2013, are usually uneven in quality, poorly edited, if at all, and creaky in the mutual fit of the various contributions. Count this one as something of an exception. I cannot assess how it will be judged by our French colleagues, but, if like me, you yourself are creaky in your overall grasp of the historiography of French public law thinking in the 20th century, you will I expect, like me, find this book not just illuminating but close to indispensable. It is also one of those rare cases where reproduction of some elements of the discussion in the *journée d'études* actually makes sense and enhances the overall utility and even pleasure of the book. Another good read.

David Bellos, *Georges Perec: A Life in Words: A Biography* (D.R. Godine, 1993)

This recommendation is a two-for-the-price-of-one. If you are not familiar with the work of Perec, hang your head in shame or be thrilled with anticipation of the delights that await you. Delight is, perhaps, not the *mot juste* for there is a definite darkness to both his life and his work. It is difficult to know where to start. I would not begin with what is considered, justly, his masterpiece *Life, A User's Manual*. It makes sense to read that after acquaintance with his shorter, more accessible work. *W, or the Memory of Childhood* is autobiographical (to a point), poignant and compelling. You will not put it down once you begin. The word 'delight' would be appropriate for *La Disparition*, which is a French language novel which manages not once to use the letter e – can you imagine that? (And even more beguiling is the success of Gilbert Adair in translating the novel into English without the letter e either. I have a prized translation into Italian which manages the same feat too). *Les Revenentes* is a short novella in which the only vowel used is e. (I am unaware of a translation of *that* into English). Both, the first more than the second, are actually subtle and even profound works. There is much more to choose from. It is, thus, with surprise that I discovered, only this year, David Bellos' 1993 biography. For those of you who are familiar with the work of Perec, this biography is so worth reading by an author who demonstrates a profound understanding of the work (he is one of Perec's translators) and the life. It prompted me to go back to *W* and read it with an altogether new understanding.

Monica Garcia-Salmones Rovira, *The Project of Positivism in International Law* (Oxford University Press, 2014)

The Project of Positivism in International Law by Monica Garcia-Salmones Rovira is another victim of excessive pricing and thus her book has not received in my view the attention that it merits. It is a reworking of the author's extraordinary doctoral dissertation written under the supervision of Martti Koskeniemi: Full Disclosure – I was the 'opponent' (an archaic and both serious and endearing practice in Finnish doctoral defences) of the dissertation and its external examiner. It is not an easy read – dense and detailed. But it is worth the effort in not only understanding a trend that dominated international law for most of the 20th century but also for the insight it gives into the work of Kelsen and Oppenheimer.

Julio Ramón Ribeyro, *La palabra del mudo* (Seix Barral, 2010)

One does not think of Ribeyro in quite the same breath as, say, Borges or Cortazar. But he, too, is a master of the short story. He is at his vicious (yes) best in describing the social – whether at work or at home. You cannot help but laugh somewhat uncomfortably with him at his 'victims', because want it or not, you too are an object of his ironic arrows. He is without peer in exploring the mood and circumstance of disappointment – but the breeziness of the writing, the irony and the humour take the sting out of these often profound observations of the human condition. Many of his stories have been translated into English – if you want to start somewhere look for *Té literario* – it is one long chuckle all through this short piece. You will certainly go back for more.

Marise Cremona, David Kleimann, Joris Larik, Rena Lee, Pascal Vennesson, *ASEAN's External Agreements: Law, Practice and the Quest for Collective Action* (Cambridge University Press, 2015)

Pieter Jan Kuijper, James Mathis, Natalie Morris, *From Treaty-making to Treaty-breaking: Models for ASEAN External Trade Agreements* (Cambridge University Press, 2015)

These two monographs are part of the multivolume series 'Integration through Law: The Role of Law and the Rule of Law in ASEAN Integration' of which I am Editor alongside Dr Hsien-Li Tan. There is generally speaking a dearth of research and knowledge concerning the legal dimensions of ASEAN and even more so when it comes to the rich practice of ASEAN treaty-making. I single out these books because together they not only close this academic lacuna in this area of ASEAN studies but

they veritably constitute the field *ex nihilo*. Read together they provide structure, create categories and identify cognitive and policy challenges which the at times erratic and ad-hoc nature of the practice throws up. I single them out, too, because they are of considerable utility given the stasis of the WTO and the turn to regional and mega-regional organizations in international (economic) law. In this respect they will be for some time to come an essential conceptual reference point.

Mary Oliver, *Felicity: Poems* (Penguin Press, 2015)

Like my recommendation of *Travesuras de la niña mala*, it is hard to make a mistake with celebrated and beloved poet Mary Oliver. She has been writing for as long as I remember reading poetry in English. If you are ‘... in the mood for love’ you will find both elation and melancholy, introspection and precision in her recent collection. It is hard for me to imagine that anyone will not find something to be purified by, to read and reread with quiet contemplation. A perfect gift.

Vital Statistics

Each year we publish statistics on the state of our submissions: who submitted, who was accepted, and who was published in *EJIL* during the previous 12 months. We do this in order to observe and understand any changes that may be taking place in submission and publication patterns in our Journal. We do this, too, because we publish the very best manuscripts submitted to *EJIL*, selected through our double-blind review process. We offer no affirmative action in selection. Rather we look for excellence, articles that will be read, recalled, referred to and cited in years to come.

Of course, the *EJIL* Editors do commission some articles. We would risk becoming merely a refereeing service if we relied only on unsolicited manuscripts. Again, statistics are important in order to check that we are getting the balance right. For the past three years the percentage of unsolicited manuscripts has remained stable at around 65 per cent or two-thirds of the total, which we consider to be a sound balance.

The percentage of manuscripts submitted by women authors this past year dropped slightly to 32 per cent, although 33 per cent of accepted submissions were by women and the figure for published articles was 35 per cent. These figures do not differ markedly from previous years. Nevertheless, it is encouraging to see that the percentages of accepted and published articles submitted by women reflect or even surpass the percentage of overall submissions by women.

In order to gauge the provenance of our manuscripts we perhaps somewhat arbitrarily divide the world into four regions: the European Union, the Council of Europe countries outside the EU (CoE), the US and Canada, and the rest of the world (RoW). Our statistics indicate the country of submission rather than the authors’ nationality, simply because it is not possible to obtain that information. In any case, the figures convey a fairly reliable picture of our authors and *EJIL*’s presence in the world.

Of the total number of manuscripts submitted in 2016, 47 per cent came from the EU, 8 per cent from CoE countries, 10 per cent from the US and Canada and 35 per cent from RoW countries. The spread of percentages for accepted and published articles,

however, differed. A larger percentage of articles from EU countries were accepted and published: 57 and 54 per cent, respectively, whilst significantly fewer manuscripts from the RoW were accepted and published: 23 and 15 per cent, respectively. The US and Canada saw a larger percentage of manuscripts published, 24 per cent, reflecting the increased number of manuscripts accepted the year before. Finally, 12 per cent of manuscripts were accepted from CoE countries, representing quite an increase, whilst the published articles from that area remained stable at 7 per cent of the total.

We encourage submissions from authors in non-English-speaking countries, and provide an excellent copy-editing service for all articles accepted for publication. This past year saw a similar breakdown in percentages of submissions from English-speaking and non-English-speaking countries, 38 and 62 per cent, respectively. However, we saw a leap in accepted articles by authors in non-English-speaking countries, from 34 per cent in 2015 to 65 per cent in 2016, whilst published articles still leaned quite heavily towards English-speaking countries, with 59 per cent of the total. Next year we will see a rise in published articles from non-English speaking countries.

In Memoriam: Vera Gowlland-Debbas

22 September 1943 – 29 September 2015

Vera Gowlland-Debbas was a dedicated and active member of EJIL's Scientific Advisory Board from 2007 to 2012. Her loss has been deeply felt. In this Editorial, Marcelo Kohen, Professor of International Law at the Graduate Institute in Geneva and her long-time colleague, pays homage to Vera's lasting contribution to the field of international law.

On 29 September 2015, Vera Gowlland ultimately lost her battle with a cruel disease that she had fought with courage and dignity. This is a great loss not only for the Graduate Institute of International and Development Studies, where she completed her *licence* and her doctorate, served in the publications department and taught from 1994 until her retirement in 2009, when she became an honorary professor. It is also a great loss for international law and for the values she defended.

Despite her illness, Vera continued to work in a variety of ways in our discipline, giving counsel on issues related to the International Criminal Court and continuing her contribution to academia. Her last physical presence at an academic event was as the Chair of a panel at a symposium on 'International Law and Time', held in Geneva on 12–13 June 2015, at which, without knowing it, she was to say farewell to her colleagues and students. While her voice was wavering, her spirited enthusiasm remained clear to see, and her joy at sharing this academic event at the institution where she had so often taught and organized academic activities herself was apparent.

Vera's intellectual contribution is a distinguished legacy. She always had a tremendous appetite for problem-solving. Her doctoral thesis, written during the Cold War period and entitled: 'Collective Responses to Illegal Acts in International Law', focused on the reaction of the international community to the alleged creation of the racist state of Southern Rhodesia at a time when the active use of Chapter VII of the United Nations Charter had not been seriously considered. This appetite was also reflected

in her monumental work on the national implementation of sanctions adopted by the Security Council, which provides important guidance and remains the most comprehensive and significant work in this field. Her course at the Hague Academy of International Law on the Security Council and questions of international responsibility complements her long record of publications and confirms her reputation as an uncontested specialist of the United Nations.

Because of her compassion and her Middle Eastern origins, it was natural that Vera specialized in the field of refugee law. In fact, Vera introduced this subject into the teaching offered by the Graduate Institute and trained those who in turn have become specialists in this field.

All those who had the privilege of sharing in her work and teaching could appreciate her vision of international law, her modesty, her sincere and unfailing friendship, her sensitivity and her finesse. She always had a youthful spirit, and it was often difficult to guess her real age!

Vera Gowlland was the personification of what characterizes the Institute that shaped her and that she taught at: her perfect bilingualism, the interdisciplinarity of her approach and the journey of her life in a multicultural universe. Her two principal mentors, Georges Abi-Saab and Michel Virally, strongly influenced her vision of the role of international law.

Vera Gowlland was a deeply committed and engaged person. She was one of the founding members of the European Society of International law. The domains that interested her most included the rights of refugees, self-determination and the law of the United Nations. Pursuing the development of these areas is the best tribute we can give her in these dark moments. Her soft voice, her compassion, and her intellectual contribution will forever remain in our memory.

Marcelo Kohen

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In this Issue

This issue opens with the third entry under our annual rubric, *The EJIL Foreword*. In keeping with the rubric's mission statement, Laurence Boisson de Chazournes takes a broad and sweeping view of the proliferation and consequent pluralism of international courts and tribunals. In doing so, she argues that an 'overarching managerial approach' may be observed in various practices of both judicial and state actors, and notes still other methods that could strengthen this approach.

The next three articles in this issue address the processes of international law-making from a variety of perspectives. In the first regular article, Florian Grisel assesses the top-down processes informing transnational governance. Grisel utilizes the example of the drafting of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the involvement of the International Chamber of Commerce experts to illustrate how transnational expert networks can contribute effectively to the process of treaty-making. Taking on the involvement of non-state actors from another perspective, Nahuel Maisley argues that Article 25(a) of the

International Covenant on Civil and Political Rights should be interpreted as giving civil society groups a right to participate in international law-making. In their article, Armin von Bogdandy, Matthias Goldmann and Ingo Venzke then address the implications of the proliferation of international institutions, advancing a theory of ‘public international law’ which regards such institutions as exercising ‘international public authority’ and seeks to take account of world public opinion in enhancing their legitimacy and effectiveness.

In a shift of topic, Natalie Davidson revisits the seminal Alien Tort Statute cases of *Filártiga* and *Marcos*. In exploring the historical narratives produced in these two cases, Davidson’s article seeks to challenge some of the sanguine assumptions of international human rights lawyers and lay bare the ‘deep foundations of violence’ in the international system and US foreign policy. Relatedly, Alejandro Chehtman examines the moral and legal permissibility of the use of remotely piloted aircraft systems, challenging the intuitive view that the use of drones will contribute to making the use of force proportionate in a wider set of circumstances.

Roaming Charges in this issue pictures a place, within a thriving metropolis, where solitude is more common than connection.

This issue features an *EJIL: Debate!* centring on an article by legal philosopher Liam Murphy addressing a series of questions where legal philosophy meets ‘Law Beyond the State’. The dialogue begins with a Reply from Samantha Besson, focusing on the role of consent in international law. Nehal Bhuta’s Reply reconstructs the argument from Murphy’s article, and the larger work from which it is drawn, and develops a criticism of his argument about the duty to obey international law. Christoph Möllers argues that Murphy seems to have ‘missed the decisive point’ in the recent development of international law, and expresses doubt that legal philosophy could cast light on the fragmentation debate in international law’. Lastly, Jochen von Bernstorff focuses on Murphy’s discussion of the role of positivism and non-positivism in international law and his application of Dworkinian jurisprudential insights to international legal norms such as the prohibition of the use of force. Liam Murphy offers a Rejoinder to the reactions provoked by his article.

The articles in this issue close with a *Critical Review of International Governance* piece by Michelle Zang, examining the relationship between the Court of Justice of the European Union and the Dispute Settlement Mechanism of the World Trade Organisation.

We move away from our customary poem in *The Last Page* in this issue to reprint an excerpt from an interview with the late Adrienne Rich, who for many years was a prominent and politically engaged poet in the USA. She thoughtfully answers the very pertinent question: Does poetry play a role in social change?

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