

Vol. 1, No. 1 (2009)**Editorial**

During the past months, the world indulged in the rhetoric of “change”. President Obama heralded a new era through his speeches and his election. What a perfect time to start a new journal, especially in the field of international law where there is so much need for “change”. As many regions of the world are shaken by conflict and humanitarian crisis, as the global economy is threatened by the collapse of the financial markets, and as environmental degradation is not a territorially limited phenomenon any more, the desire for international legal rules becomes stronger. This calls upon scholars to explore the potential of international law for the solution of these problems on a global scale.

If a new era in thinking about international law is to start, the next generation of academics has to be included. One motivation to start this Journal is the observation that there exists only limited opportunity for young international lawyers in Europe to take part in scholarly debate. The established journals can publish only a limited number of contributions. They are forced to reject a large number of high quality submissions. More than this, the journals’ policies determine the debate and not only the actual contributions. Thus far, young scholars in continental Europe have had only few opportunities to work on the board of a law journal and co-determine its policy. We sensed, therefore, the need for a journal, which would allow the new generation to benefit both from the experience of selecting, reviewing and editing the work of experienced academics, and from the opportunity to publish their own work. This is the basic idea underlying the Göttingen Journal of International Law (GoJIL). At the same time, it will be a valuable addition to the international debate. As an e-journal, published exclusively in English, the GoJIL can be accessed free of charge – the best way for reaching the broadest possible audience. We are also of the opinion that open access to academic research is essential for the future of legal scholarship. In the process from submission to publication, the GoJIL can be

both quick and thorough by saving the time for printing and sending contributions by ordinary mail.

Our aim is to publish a journal that fosters debate among scholars of the diverse fields within international law, while, concurrently, facilitating contributions to the debate from related disciplines. In the future, the GoJIL will publish two types of issues. The first type is a semi-annual “regular” issue. For this, we encourage submissions addressing general international law and employing methodologies from neighbouring disciplines such as international relations, history, or economics. The Journal also welcomes contributions emanating from specialised branches of international law such as international criminal law, international humanitarian law, and international economic law, in particular if they address issues, which are of relevance for a large number of scholars. For this purpose, the GoJIL issues an open and ongoing call for papers. In the review and selection process, the primary criteria will be the quality of work and significance of the topic for academic discourse. We invite and encourage all scholars in the field of international law to submit their manuscripts for publication in the Journal.

In addition to the semi-annual issue, there will be special issues of the GoJIL focused on a specific topic. Related to the recent events on the international scene with regard to Russia, our first issue of this type will be about “Russia and International Law”. It will appear during Spring 2009. Our special issues offer all the advantages of an electronic journal and provide an immediate forum for the debate of current developments in international law.

In forming the organisation and structure of the GoJIL, the team was inspired by American, student-run university law journals. However, since this practice is not firmly established among legal scholars in Europe, we have chosen a somewhat different approach. While a number of advanced young scholars recruited for our Scientific Advisory Board are in charge of the peer review to ensure the high academic quality of the Journal, the Editorial Board is composed of students at the University of Göttingen Law School. These students are responsible for the overall policy of the Journal, as well as for its daily management, including the editing process. The Editorial Board decides on the final composition of each issue of the GoJIL and, advised by the Scientific Advisory Board and the Advisory Board, determines the subject of the special issues. Furthermore, the Institute of International and European Law in Göttingen and the “Göttinger Universitätsverlag” cooperate with the GoJIL Editorial Board in order to guarantee high academic standards of the Journal.

The provenance of this Journal was born out of the exceptional conditions for public international law that the University of Göttingen provides. The law faculty has a high number of scholars with an interest in public international law. The Institute of International and European Law maintains chairs in general public international law, international economic law, and European law. In addition, Göttingen is one of the few places with a chair dedicated to the emerging field of international criminal law.

In the past, the name of Göttingen has always been well known in the field of public international law. Georg Friedrich von Martens, one of the pioneers of international legal positivism, was *Professor des Natur- und Völkerrechts* at the Georgia Augusta from 1783 to 1808. He published the first edition of the *Recueil Martens* in 1789, a great collection of international treaties. The first seven volumes were published in Göttingen. Another famous scholar, Lassa Francis Lawrence Oppenheim, received his doctorate in law at the Georgia Augusta in 1881. Oppenheim also belonged to the positivist school of international law. He was author of the standard manual of public international law of the time, *International Law: A Treatise*. Until this day, the “Oppenheim” is the authoritative English language manual. Martens and Oppenheim, as scholars and publishers, serve as examples to the university and especially to the Journal. While positivism was the challenge of their times, the GoJIL takes up the challenge of present-day methodological pluralism.

After more than one year, we now finally present the first issue of the GoJIL. It is the result of endless board meetings, brainstorming sessions, office hours, and raids for funding. This certainly would not have been possible without the help and support that we have received from so many, who are expressly named in our Acknowledgments. The first issue covers a range of topics, which illustrates the Journal’s wide scope of interest. We are proud to announce that the Honourable Judge Thomas Buergenthal, after reviewing our plan for the Journal at the inauguration of the Thomas Buergenthal Library in Göttingen, immediately agreed to write a foreword for the first issue of the GoJIL. Likewise, Professor Jutta Limbach, former President of the *Bundesverfassungsgericht* as well as the *Goethe-Institut* and member of the Foundation Council of the University of Göttingen, has contributed a comment on “Human Rights in Times of Terror - Is Collective Security the Enemy of Individual Freedom?”. Her article introduces the topic of the GoJIL International Student Essay Competition 2008. The winning piece of the competition, written by Evelyne Schmid, about the right to a fair trial in times of terrorism with regard to Article 14 ICCPR,

suggests the principle of consistency as a tool to identify the minimum standard of non-derogable fair trial rights.

The subsequent articles in this premier issue of the GoJIL address a wide variety of fields within international law. Robert Cryer contributed an article on recent developments in international criminal law with regard to the prosecution of top-level perpetrators of international crimes, entitled "Prosecuting the Leaders: Promises, Politics and Practicalities". Diane Desierto detailed the issue of exceptionalism in human rights as it relates to the Asian geo-political and economic organization ASEAN in her article, "Universalizing Core Human Rights in the 'New' ASEAN: A Reassessment of Culture and Development Justifications Against the Global Rejection of Impunity". Moreover, the political scientist Dimitris Chrysochoou provided a look at the transformation of state sovereignty in Europe in his "The European Synarchy: New Discourses on Sovereignty." The article aims to yield a deeper understanding on the evolution of sovereignty relations within the EU as an institutionalized system of "co-governance" and further represents an attempt to make sense of the totality of what has been achieved so far.

In order to take full advantage of the electronic form of publication, the Editorial Board has decided to include the category "Current Developments in International Law". In this category, young scholars have the opportunity to publish short comments and reviews on recent developments in public international law. For the first issue, Tobias Thienel passes comment on the recent first Order from the ICJ in the dramatic, ongoing case between Georgia and Russia. That Order combined aspects of the Court's provisional measures jurisdiction with some early insights into the merits, particularly on the highly relevant issue of extraterritorial human rights protection. We hope that this will stir interest for our upcoming special issue on Russia. Sebastian Recker examines the Kadi-Judgment of the European Court of Justice on the question of review of the lawfulness of regulations based on UN Security Council resolutions. Jörn Müller presents the USA-India Agreement on civilian nuclear cooperation and its implications for the legal regime against the proliferation of nuclear weapons. Katrin Arend evaluates the implications of the FIAMM judgments on the question of the existence of non-contractual liability of the EC in cases of lawful acts and the relation of the EC to the WTO with its dispute settlement mechanism. Finally, Matthias Goldmann reviews Andrew Guzman's book "How International Law Works: A Rational Choice Theory", which refutes Jack Goldsmith's and Eric Posner's thesis about the limits of international law.

On behalf of the members of the GoJIL Editorial Board, we hope that this debut issue will exceed your expectations and pick curiosity about future issues of the Journal, such as "Russia and International Law", GoJIL's Spring 2009 special issue.

The Editors

