

Call for Papers



“Politics and the Histories of International Law” Conference organised by the Journal of the History of International Law (*JHIL*) Heidelberg, 15–16 February 2019

On 15 and 16 February 2019, an international conference will be held at the Max Planck Institute for International Law at Heidelberg under the auspices of the *Journal of the History of International Law*. The aim is to publish papers from the conference (upon peer review) in a special issue on ‘Politics and the Histories of International Law’ in the journal.

Theme of the Conference

L’histoire n’est pas une religion. L’historien n’accepte aucun dogme, ne respecte aucun interdit, ne connaît pas de tabous. Il peut être dérangeant.

LIBERTÉ POUR L’HISTOIRE, 2005

Almost all scholarship on international law and its history has political implications. Some say that international legal scholarship is inevitably ideological in nature and that its findings depend on concealed political preferences. Put differently, legal scholarship could be nothing more than the pseudo-objective defence of ruling ideologies. Most famously, Hans Kelsen had denounced a ‘tendency wide-spread among writers on international law’ to produce ‘political ideology’. Kelsen sought to escape this by writing books of a ‘purely juristic character’ (*Principles of International Law*, 2nd ed. 1967, ix). In his foreword to the commentary on the UN Charter of 1950, he stressed that ‘separation of law

from politics in the presentation of national or international problems is possible' (*The Law of the United Nations*, 1950, viii).

Many nowadays doubt that purging international legal scholarship of politics would work. In 2004, Martti Koskenniemi put this as follows: 'The choice is not between law and politics, but between one politics of law, and another. Everything is at stake, but not for everyone' (*EJIL* 16 (2005), 123).

So, which factors 'politicise' international legal scholarship? The first factor is that the object under investigation is itself a political matter. International law has throughout its history been political, because its content depends on the political power of the parties negotiating the treaties, and because it transports political values.

Scholars themselves cannot completely avoid being more or less political actors, because their value judgements, which are inescapable, often carry political implications. However, an important difference between doing scholarship and doing politics lies in the authors' main intention: It is, ideal-typically, not the primary purpose of scholarship to make politics and unbounded evaluation but to generate knowledge – which could then be used politically, by the author herself or by others. Along this line, most scholars of history seek to uncover various aspects of past events and debates and to contextualise them, thereby realising a modicum of objectivity and neutrality. Some consciously try to avoid judgment, while others are more prone to judging deliberately and to employing historical insights in contemporary political debates.

Research on the history of international law is not only inherently political but moreover specifically 'risk-prone'. Writing on topics such as genocide, state of exception, failed states, humanitarian intervention, asymmetrical war, or cyber-attacks is especially liable to being used and abused by participants in political controversies. In fact, when it comes to writing history, the fight over master narratives is especially fierce, among governments, in different academic camps, and between governments and academics. The notorious example are memory laws which consecrate specific views on atrocities of the past (especially genocidal massacres) and which sometimes additionally criminalise the denial of those atrocities. These attempts to close historical debates by law have been criticised by historians, most famously in the petition 'Liberté pour l'histoire' by French historians reacting against various French memory laws.

To conclude, the interpretations of historical events are almost inescapably political, and potentially have the power to shape international relations: 'On résiste à l'invasion des armées; on ne résiste pas à l'invasion des idées' (Victor Hugo, *Histoire d'un crime*, 1877/2009, 639). It is against this background that the

rights and responsibilities of those researching on the history of international law should be seen.

The *JHIL* invites scholars to engage with the questions of the role of politics and ideology in the historiographies of international law. We welcome propositions for papers which address methodological questions, as well as case studies or historiographical analyses that focus on certain contentious subjects within the field of international law and its history.

Practical Matters

- Date: The conference will last from Friday morning, 15 February to Saturday noon (16 February 2019). It will start with an informal get-together on Thursday evening, 14 February.
- Venue: Max Planck Institute for Comparative Public Law and Public International Law, Im Neuenheimer Feld 535, D-69120 Heidelberg, Germany.
- Scholars who would like to present a paper at the conference are invited to submit a title and abstract (250–500 words) to the managing editor of the *JHIL* (submissions.jhil@mpil.de) before 1 June 2018. Abstracts will be assessed by the editors of the *JHIL* with involvement of the journal's Academic Advisory Board. A decision on acceptance of the abstract will be communicated by 1 July 2018.
- Authors of accepted abstracts will be requested to submit their draft papers by 1 February 2019. The draft will be circulated among participants (authors and admitted engaged listeners).
- Final versions of the papers will be due by 30 March 2019. Papers will then be submitted to the normal review procedure of the *JHIL*, online at: editorial.manager.com/jhil.
- See the “Instructions for authors” online at: brill.com/files/brill.nl/specific/authors_instructions/JHIL.pdf.
- The Max Planck Institute will cover the costs of the accommodation of accepted paper presenters (up to three nights) and will offer a needs-based subsidy towards travel costs.
- An additional call for engaged listeners will be issued shortly.
- For updated technical information on the conference see mpil.de/en/pub/publications/periodic-publications/jhil.cfm.