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Editorial

Dear Readers,

The atrocities committed by Isis in Iraq and Syria, the conflict between Israel and Gaza, the crisis in the Ukraine: Rarely has the international news been almost completely dominated by topics related to international law as it is at the moment. The international community has been observing each of the three hot spots with utmost alertness. As different as these conflicts may be, they have in common that mid- or even long-term adjustments currently seem hardly feasible.

In the face of these facts it is not surprising that other news faded into the background, one of which was the International Criminal Court's announcement concerning the death of its judge Hans-Peter Kaul.¹ With his passing, the ICC lost one of its founding fathers, though his considerable contributions to a variety of decisions remain, substantially shaping international criminal law. The Editorial Board dedicates pages 8 and 9 of this issue to him.

With the beginning of the sixth volume, GoJIL has irrevocably grown up from its 'childhood'. The Editorial Board – largely comprised of a new team – gladly awaits the future challenges.

In the first article of this issue, *Frances Nguyen* sheds light on the often puzzling legal categorization of the crime of forced marriage and its opaque relation to sexual slavery and arranged marriage. Her article 'Untangling Sex, Marriage, and Other Criminalities in Forced Marriage' seeks to provide a better

¹ ICC, 'Passing of former ICC Judge Hans-Peter Kaul', ICC Press Release ICC-CPI-20140722-PR1032 (22 July 2014), available at http://icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1032.aspx (last visited 1 September 2014).

understanding of forced marriage's legal nuances, appealing for its increased criminalization and awareness thereof as a sex and gender-based crime that is on par with other similar prohibited acts, such as sexual slavery, enslavement, rape, and forced pregnancy. To that purpose, case studies of Sierra Leone, Uganda, and Cambodia are harnessed to illustrate the complexities and difficulties in prosecuting this egregious crime.

Then, in his article 'Bystander Obligations at the Domestic and International Level Compared', *Otto Spijkers* tracks the question whether there exists a so-called 'bystander State responsibility', a legal obligation of third States to intervene in cases of serious breaches of fundamental international obligations. The author provides answers to this question by means of a comparative analysis of domestic law and international law. This approach enables him to derive similarities that could be used to establish a legal framework on the international level.

Also within the topical heading 'Forms of Responsibility of States in International Law', *Raphaël van Steenberghe* reflects on a possible association of the responsibility to protect and the protection of civilians in armed conflict. Looking at both, similar characteristics as well as differences between the two notions, he concludes that the distinction between them has to be made clear, especially since there can be negative impact on international humanitarian law.

Two articles on international trade law round off this issue. While – yet unexpected for some – the agreement on the 'Bali Package' in December 2013 was celebrated as a milestone of the World Trade Organization (WTO),² the disillusionment after the latest failure of this first global free trade agreement since 1995 is all the more bigger.³ Whether the opposition, especially of India,

² See, e.g., R. Fabi, 'WTO Overcomes Last Minute Hitch to Reach its First Global Trade Deal', *Reuters* (7 December 2013), available at <http://in.reuters.com/article/2013/12/07/trade-wto-cuba-idINDEE9B602720131207> (last visited 1 September 2014); N.N., 'W.T.O. Reaches First Global Trade Deal', *New York Times* (7 December 2013), available at http://nytimes.com/2013/12/08/business/international/wto-reaches-first-global-trade-deal.html?_r=0 (last visited 1 September 2014).

³ See, e.g., T. Miles, 'WTO Failure Points to Fragmented Future for Global Trade', *Reuters* (4 August 2014), available at <http://reuters.com/article/2014/08/04/us-trade-wto-idUSKBN0G41KU20140804> (last visited 1 September 2014); K. Mehrotra & B. Wingfield, 'WTO Talks Fail Over Food-Subsidy Objections From India', *Bloomberg* (1 August 2014), available at <http://bloomberg.com/news/2014-07-31/wto-talks-fail-over-food-subsidy-objections-from-india.html> (last visited 1 September 2014).

which hindered the required consensus in the end, causes the ‘collapse’ of the ‘Bali package’ and thus a crisis for the WTO system remains to be seen.⁴ From the agreement’s proponents’ point of view one can at least hope that the process of reflection of the delegations, which was demanded by Director-General Roberto Azevêdo for summer break,⁵ brings about a quick resumption of negotiations. This is in particular requested by the developing countries, the main victims of the failure.⁶

Developing countries are then also at the center of attention in these last two articles of this issue:

Firstly, in ‘The Least-Developed Countries Service Waiver: Any Alternative Under the GATS?’, Claudia Manrique Carpio and Jaume Comas Mir examine the legal scope of the LDCs services waiver, approved by the WTO Ministerial Conference in 2011, as well as the viability of its implementation as a useful tool to boost LDC’s participation in Trade in Services and engagement within the GATS. The ensuing analysis of whether the waiver has fulfilled its main objectives, finds that for reasons of regulatory concerns, it may not have a strong impact. Conversely, alternatives to enhance LDCs’ integration with the GATS are conceivable.

Yet another aspect of international trade law of particular interest to developing countries is explored by Pananya Larbprasertporn in ‘The Interaction Between WTO Law and the Principle of Common but Differentiated Responsibilities in the Case of Climate-Related Border Tax Adjustments’. Here, she determines the extent to which invoking the CDR principle may have a bearing on WTO legal disputes concerning said climate-related border tax adjustments. The author ultimately upholds the predominance of the non-discrimination principle

⁴ For a first analysis of the failure see also R. Howse, ‘The Fallacy of the July 31 Deadline in the WTO TFA: Inventing a Crisis and Demonizing India’s Democracy’, *International Economic Law and Policy Blog* (1 August 2014), available at <http://www.worldtradelaw.typepad.com/ielpblog/2014/08/the-fallacy-of-the-jul-31-deadline-in-the-wto-tfainventing-a-crisis-and-demonizing-indias-democracy.html> (last visited 1 September 2014).

⁵ WTO, ‘Azevêdo: Members Unable to Bridge the Gap on Trade Facilitation’ (31 July 2014), available at http://wto.org/english/news_e/news14_e/tnc_infstat_31jul14_e.htm (last visited 1 September 2014).

⁶ See, e.g., S. Mazumdar, ‘WTO Faces Uncertain Future After Indian Veto’, *Deutsche Welle* (1 August 2014), available at <http://dw.de/wto-faces-uncertain-future-after-indian-veto/a-17827015> (last visited 1 September 2014).

within the WTO legal system, thus diminishing the formative power of the CDR principle and leaving the fairness of international climate change law vulnerable in this context.

We hope that this selection of thoroughly chosen articles provides an interesting read to our readership.

The Editors