

Vol. 2, No. 1 (2010)**Editorial**

When founding GoJIL, the idea was to publish a journal which contributes to discussions on international law and discussions on current developments and emergencies. Well before the publication of “Russia in International Law – From the North Pole to the Caucasus”, our first special issue published in May 2009, the decision for the next special issue was already made: the financial crisis. As a result, this GoJIL Special Issue Vol. 2, No. 1 (2010) is dedicated to the topic “Strategies for Solving Global Crises – The Financial Crisis and Beyond”, and is based on an interdisciplinary, international workshop of the same title, held in Göttingen on 15-16 October 2009.

Why this topic? Global Crises have always been an issue in international law, as is well put by Maria Agius in the heading of her article, “Dying a Thousand Deaths”¹. Some, such as Michael Reisman, go further and argue that crises or incidents should be regarded as “the basic epistemic unit of international law”². Even if this view may be looked at critically, since the attribution of an exceptional character to international law may run the risk of limiting its role in day-to-day life,³ one has to recognize that, especially in crises and conflict situations, international law has to prove its effectiveness. Although international crises are not something new, they enjoy a whole new level of reception and consequence in a globalized world, where a subprime crisis in the US rapidly influenced the economies of other continents. Looking not only at the last few years, but also at the last decade, one may also take a look at the dot-com bubble (the so-called crisis in the new markets), the terror attacks on 11th September, the climate crisis or the 2009 “swine flu” pandemic, to realize how many crises were publicly perceived. How are these different crises linked with, and differ from, each other?

¹ M. Agius, 'Dying a Thousand Deaths', 2 Goettingen Journal of International Law (2010) 1, 219.

² M. Reisman, *International incidents: the law that counts in the world of politics* (1986), 15.

³ H. Charlesworth, 'International Law: A discipline of Crisis', 65 *The modern Law Review* (2002), 377.

Furthermore, against this background of interdependence in a global world one may ask whether the concept of *domaine réservé* is an illusion in the 21st century or at least more weakened, in case a state cannot act in a way which to the utmost probability will not affect the other states' societies and systems. Given this global character of recent crises, the question to ask is: How does international law react to these new challenges? A question, which can be broken down into sub-questions, such as: How can international law react? And where is the balance that international law can be both: effective and legitimate? These questions are far away from being answered and therefore will still remain in discussion. This workshop was an opportunity for a young generation of the scientific community to find solutions, discuss strategies and to coin the future.

Why a workshop? Instead of "only" publishing a further special issue we invited scholars and international lawyers to Göttingen, to provide an opportunity not only to present their arguments but also to discuss them with each other and to develop their respective thesis with the inclusion of new thoughts and arguments. All participants appreciated the highly productive and fruitful atmosphere of discourse with various arguments and methodology. We are trying to incorporate such a culture of debate in future issues by developing further editorial concepts.

Why interdisciplinarity? "If we are to understand the significance of international law and how it works and evolves, it is essential to look outside the law itself."⁴ This applies even more when talking about crises with their complex political, economic and sociologist influences. The enforcement or implementation of international law depends on the legitimacy of the law-making process. Any doubts as to this legitimacy or political reservations may hinder an effective implementation, as we witnessed in Iceland with regard to the referendum a few weeks ago. On March 6, 2010 more than 93 % of the Icelanders voted "no" in Iceland's first referendum and rejected a deal to repay the U.K. and the Netherlands €3.9 billion lost in the collapse of an Icelandic Internet bank. The payback-bill was based on long negotiations between Iceland, the United Kingdom and the Netherlands and was passed by the parliament of Iceland but not signed by the president. It is difficult to treat international law as detached from a social or political atmosphere and to ignore the background, facts and consequences which are affected by international law and its norms.

The openness to and of an interdisciplinary approach is, since the beginning, part of the identity of GoJIL that "takes up the challenge of present-day methodological pluralism."⁵

Due to the initiative and the outstanding help of the workshop organizers Anja Eikermann, Roman Goldbach, Thorsten Hasche, Sven Mißling, Jörn Müller

⁴ O. Schachter, *International Law in Theory and Practice* (1991), 3; see also R. Goldbach *et al.* 'Global Governance of the World Financial Crisis?', 2 *Goettingen Journal of International Law* (2010), 11, 15.

⁵ 'Editorial', 1 *Göttingen Journal of International Law* (2009) 1, 5, 7.

and Stefan Schüder we are able to publish the results of this debate. We are proud to publish a multitude of articles, which in their diversity contribute to a multifaceted character of this issue. Thorsten Hasche, Roman Goldbach, Jörn Müller and Stefan Schüder introduce to this special issue. They deliver background insights from the interdisciplinary workshop on strategies for solving and preventing global crises and put them within the broader frame of global governance. The authors Julia Becker together with Marcus Höreth, Jared Sonnicksen, as well as Luca Schicho, Régis Bismuth and Stefan Handke examine the dynamics of global phenomena by taking a look at actors and processes before and during global crises, such as Sovereign Wealth Funds, potential international standard-setting organizations, as well as national executives and national regulatory agencies. Questions of how to strengthen a democratic, transparent and effective financial governance or to ensure transparency on the national level, or the concern of whether the quick reactions of states to combat a crisis leads to “deparliamentarization” – these are just a few of many interesting questions posed by the authors in their contributions.

Further, Laurissa Mühlich, Franziska Müller and Jakob Wurm analyse possible prevention and solution strategies for global crises by considering regional – South East Asia, South Africa and South America – and institutional – IFIs – approaches. Can regional cooperation have a stabilizing impact, and if so, under which conditions? To what extent can International Financial Institutions- instead of directing measures against their members- become subject of measures directed against them, is a question which brings to mind the famous Tin-Council Case which remains in discussion even after 23 years.

The role of international law for solving global crises is taken into account by Maria Agius, An Hertogen and Stefan Kirchner. The authors shed light on the question of whether international law is an obstacle to or an instrument for solving global problems, considering the tension between the exceptionality of crisis-situations against the nature of norms to maintain or ensure normalcy. The issues discussed here are those which are dear to the hearts of general international lawyers. What is the meaning of state sovereignty in international law of the 21st century? Here a strong point is made that sovereignty may not only be defined by international agreements, for instance, but also especially by the reality of interdependence from which it follows that “sovereign” acts are no longer limited to acts on a state’s territory but rather acts which influence other states. In conjunction with the concept of sovereignty (not mentioning the famous “Lotus Case” here surely would be a missed opportunity) one has to see that by using the classical norm creating process of making a treaty, international law may be slow to react to crisis. With effectively and legitimacy of law-making in mind, one must therefore ask whether international organizations may be the answer to this problem.

Finally, Mariusz Golecki, Babette Never, Marianne Ojo, Florian Süssenguth and Juan Pablo Bohoslavsky explore matters beyond the financial crisis by employing theoretical models for global crises. How can we identify risk and minimize them? It is the ambitious attempt to develop concepts with theoretical and em-

pirical parts which may serve not only to understand and to prevent future crises, but also to inspire appropriate action in the event of crises.

Yet, crises remain on the GoJIL agenda. We are delighted to announce an international conference on 7-9 October 2010 in Göttingen with the theme “Resources of Conflict – Conflicts over Resources”, which will deal with the multifaceted interdependence and interaction between resources and conflict. We are proud that one of the two keynote speeches will be held by Judge Bruno Simma (ICJ). As a young and dynamic journal and in line with our mission statement, we encourage in particular the participation of young academics, not only from international law, but also from the neighbouring disciplines. We are happy that we could persuade our former editor-in-chief, Anne Dienelt to take care of the submission process. Abstracts and questions regarding the conference can be addressed to her at anne.dienelt@gojil.eu. The prospective Panels are “Resources before, during and after Conflict”, “Actors of Armed Conflicts and International Law”, “Resources and Conflict Prevention: Access, Sharing and Regulation” and “Knowledge as a Resource: Access, Assessment and Legal Consequences”. The call for papers and more information about the conference, including panel descriptions with possible discussion topics, is available online at <http://conference.gojil.eu>.

To end, two remarks on our internal matters:

We are happy for Professor Andreas L. Paulus, member of our Advisory Board, for being appointed as Judge of the Bundesverfassungsgericht (German Constitutional Court). At this juncture, we would like to congratulate him and we wish him all the best for his future work in Karlsruhe. We are pleased that he will nonetheless continue advising us as a member of the AB.

Additionally, after Ludwig Bayern and Anne Dienelt, Anja Eikerman has also now resigned from her role as editor-in-chief. GoJIL is currently undergoing a generation shift, which happens in student law journals at shorter intervals than in other journals. Some of the first generation of the Editorial Board have now completed their education, and have withdrawn from day-to-day editing business (insofar as this is really possible), and are striking new paths. Their achievement has been singular! With a tremendous effort they invested much time over the course of two years to prepare the release of GoJIL and to run the journal in its first year of publication. We hope that they will all always remain close to GoJIL, and that we continue this journal in the spirit in which it was founded.

Now, we hope that the articles of this multifaceted issue will raise the interest of our esteemed readers.

The Editors

