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EDITORIAL

Going Open Access

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1. Introduction

Greetings, dear reader. Are you reading this editorial from within the cushioned knowledge interfaces of a well-resourced academic institution, likely in the Global North? If so, try this trick: sign out of your university network, or at least your Athens or Shibboleth or other resource access management system. Now, try to carry on with your research. Click those Google Scholar links, the hundreds and thousands that show up when you type in your keywords. Do they provide you with the articles you seek? And what about the various publishers' portals that make available e-book versions of monographs and textbooks? No? Tantalizing isn't it – what you need to consult is right there, you can see it, the titles, the tables of contents, the first paragraphs, and that's it. The rest is paywalled.

Or, dear reader, are you in fact reading this from elsewhere? From a less well-resourced institution, say, whether in the Global South or the Global North? As an independent scholar? Between affiliations? Then you already understand the impediments that are so frustrating to any effort to progress your research. The options – filling the forms of electronic repositories, crafting messages of polite request to authors, putting calls out on social media, or braving the dangers of downloading from murky websites – do exist, but they are hardly costless. Each process slows you down, exacts a toll, makes what your colleagues over at those well-resourced Northern institutions experience as a seamless process, one full of roadblocks and chokepoints for you. The paywall is the counterpart of the myriad factors, from workloads, to funding, to lacking institutional capacity, to visa restrictions impeding the presentation of your work in progress, to the various other obstacles that turn your research into an astonishing test of endurance. And, after all that, you may still find yourself exposed to Reviewer 2's impatience with your failure to cite the latest work by them or their mates.

We will take up one or two of these points below, and others as we carry on our editorial duties. Here, in the main, we are really pleased to say that starting with issue 1 of this volume, all content published by us, the *Leiden Journal of International Law* (LJIL), is and will be published open access. You still need the internet to access it, but you do not need to reach for your login buttons – nor your wallet.

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2. Open to all: Allaying teleological and practical concerns

The case for open access does not need to be made. In principle everyone is for it. In recent years many, if not most, journals have made efforts to make at least some content open access. Supporting open access is an important part of institutional (and scholarly) self-narratives about promoting diversity and inclusion in the academy, and open access requirements are already integrated into the policies of assorted funding bodies and research assessment exercises. Yet, that so far only a minority of journals have been able to become fully open access, speaks to the practical challenges that do have to be navigated when such transitions are contemplated.

Many of these challenges were usefully articulated in a recent editorial co-signed by the editors-in-chief of the *European Journal of International Law* and *International Journal of Constitutional Law*, and the editorial board of the *London Review of International Law*.[1] As the three journals explained, the decision to go open access required an understanding of possible unintended consequences for potential authors, readers, editors, and journals. It is appropriate to disclose here that we had been part of the discussions that culminated in this editorial, and we found those discussions very helpful in shaping our own policies, which we explain below by reference to the risks that the editorial so clearly outlined.

One potential risk identified was the possibility that while *reading* might become easier with open access, having work published in an open access journal might become *more* difficult. This is because open access journals, now losing out on subscription fees and content access charges, will rely evermore on the funding available to us via 'Read and Publish Agreements' concluded with various well-resourced institutions. Prior to this volume of LJIL, these agreements worked as follows: institutions would pay an annual sum to our publisher, Cambridge University Press (CUP), and in return would freely access journal content; the money, distributed across journals, would cover operational costs. From this volume on, so far as LJIL is concerned, the 'Read' element has dropped out of the equation: everyone will be able to read, so the question is, will institutions carry on with what will now simply be 'Publish' agreements, or as we are calling them, 'Transformative Agreements'? And if they do not renew their existing commitments, will we have to pass on the operating costs to authors, by way of steep article processing charges? Will this mean that we will then also default to including only authors with the ability to pay? And will that imply the need to expand content without consideration of quality as more articles equals more money via article processing charges?

There are important cautions contained in these questions. These *are* things that journals should watch out for, and it is absolutely right to highlight them, as pathologies engrained in the financial models that keep journals afloat in the absence of guaranteed institutional grants or large endowments. It is also the case, that shoestring as our operating budget is, there are costs we cannot pare away. However, following sustained discussions between the publisher, the Editors-in-Chief, and the Foundation of the Leiden Journal of International Law (LJIL Foundation), we are in a position to commit unwaveringly on two key points: publishing in the journal *will not* depend on the ability to pay article processing charges; and we *will not* tilt our curation towards quantity over quality.

The central feature of LJIL's open access model is that, as we note on our website, every author, irrespective of their circumstances will be able publish in the journal with the benefits of 'Gold' open access.[2] This means that every piece will be available to anyone to access and redistribute, and further, depending on which of six Creative Commons licenses is chosen by the author, to re-use the content in new or derivative works with attribution.[3] How will this work for you? In one of the following ways:

[1]'Editorial: Open Access: No Closed Matter', (2023) 34(3) *European Journal of International Law* 545.

[2]LJIL, Open Access Options, available at www.cambridge.org/core/journals/leiden-journal-of-international-law/information/journal-policies/open-access-options.

[3]Creative Commons (CC) Licenses, available at www.cambridge.org/core/open-research/creative-commons-licenses.

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1. If you, as the corresponding author of an article, are affiliated with one of the over 2,500 institutions with which CUP has concluded Transformative Agreements, then such an agreement will cover the costs of your publication. We offer a simple eligibility checker that you can use to see if your institution has made such an agreement.[4]
2. If you, as corresponding author, do not have the benefit of such an agreement, then you may fall within the terms of either the Cambridge Open Equity Initiative (COEI), which covers open access costs for over 5,000 institutions from over 100 low- and middle-income countries; or the Research4Life scheme, which is likewise available to authors from several low and middle income countries.
3. If you do not have the benefit of these schemes, nor other outside funding, such as a grant supporting your research from a funding body that provides article processing charges, then you will be eligible to request a discount or full waiver of your article processing charge when you complete your Author Information Form after acceptance. You will only be prompted to complete this form after your article *has been accepted* by the editors. Indeed, in all cases acceptance will come before consideration of open access costs.

As you can see, option 3 offers a general route for anyone not qualifying under other funding routes. It guarantees that no one will be impeded in publishing in our journal due to the (in)ability to pay article processing charges. It is appropriate to note here that, in estimating its capacity to offer this option, CUP probably does rely on institutions that have concluded, or have the capacity to conclude Transformative Agreements, to keep them in place – in other words, it *is* a matter of trust. And it is on the basis of this same trust between journal and publisher, publisher and institutions, and journal and institutions that we too have made the leap. It was CUP's provision of this general waiver – speaking to *its* commitment to insulate publication decisions from ability to pay – that was the determining factor in our decision to switch to open access.

For our part, at LJIL, publication decisions are insulated from the ability to pay in other ways as well. We reference here not only the sincerity of our intentions in this respect, but also the structural organization of the journal. In large measure, editorial autonomy is devolved to journal sections and the teams of section editors, while Editors-in-Chief maintain a general oversight, including via regular board meetings; while financial risks are placed in the hands of the LJIL Foundation, with whom Editors-in-Chief consult on major financial decisions, such as going open access, or releasing funds to organize the occasional conference or periodic LJIL lectures. What this means in effect is that editorial decisions take place at several degrees of remove from financial decisions and, as we also note above, working out the relevant open access funding route takes place after acceptance of the article, via the office of the Managing Editor. The current and former Editors-in-Chief who have co-authored this editorial also served as section editors for substantial periods of time, and we can confidently say that the financial questions did not register at all with us in our handling of *any* article, nor will they. Indeed, without wishing to speak absolutely for the whole of our professional field, we think it is unlikely that any editor – taking on what is effectively a labour of love (certainly, there is no financial compensation on offer) and a massive commitment of time – is guided by anything other than pleasure in identifying and shaping quality work. Of course, ideas of what counts as high quality work *do* differ, a point we turn to shortly, but we can say for certain based on our experience as much as on the principle of the thing, neither institutional affiliation, nor geographical location, nor ability to pay offer any basis for predicting quality.

[4]Eligibility Checker, available at www.cambridge.org/core/eligibility-checker.

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3. Reaffirming the LJIL ethos

There is a second, more subtly noted, yet equally important risk that the authors of the EJIL-ICON-LRIL joint editorial identify. This is the risk of a simple fixation on open access to the cost of attention to other factors that make up the inequities of knowledge production in our field, and many other academic fields. As they note, albeit in the specific context of considering different abilities to pay/ source article processing charges, 'the shift to Open Access may give people in the Global South more access to knowledge produced in the Global North while limiting their ability to participate in this knowledge production'.[5] We agree this is a serious problem, and one that goes beyond the matter of article processing charges to fundamental questions to do with the inequality of ignorance,[6] the politics of listening[7] (and citation, and authority, and knowledge[8]), and for editors, the ingrained notions and biases as to what work is identified as holding sufficient promise of quality, so that it can be taken forward through the editorial process. As well as in their general, and theorized, forms, we hear the concerns in concrete terms: from potential authors who ask us if their language skills, or lack of exposure to slick presentational and framing strategies, or wrestling with what might be regionally relevant rather than globally trendy topics, might pose barriers to acceptance.

This is not the occasion to detail all the ways in which we do and could respond to these issues, nor to survey what we see as good practices in the field that we can build upon. But we do want to emphasize that it is precisely for the reasons that these issues identify that we see a shift to open access not as a standalone achievement, but part of a suite of commitments that we must maintain towards supporting scholarship from the widest possible range of backgrounds.

As we hope our readers already recognize, LJIL's nearly four-decade record (since its first issue in 1988) has been one of openness towards different types of scholarship, doctrinal *and* critical, theoretical *and* practical, historical *and* current: this is reflected in the design of our sections. Generations of editors have sought out peripheries,[9] asserted the multiplicity of ways of knowing the world,[10] viewed our location as the stimulus for considered reflections on the work of international courts and criminal tribunals[11] and trends shaping the field,[12] and maintained a healthy spirit of iconoclasm whether towards early modern founding fathers, or contemporary

[5]See 'Editorial: Open Access: No Closed Matter', *supra* note 1, 548.

[6]D. Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (2000), 28.

[7]M. Qato, 'Texts, Tales and Transits: Archival Method and the Politics of Listening', *The Immanent Frame*, 1 July 2020; L. Bassel, *The Politics of Listening: Possibilities and Challenges for Democratic Life* (2017).

[8]C. Coetzee et al., 'Roundtable: Ethical?! Collaboration?! Keywords for Our Contradictory Times', (2019) 31(3) *Journal of African Cultural Studies* 257.

[9]F. Johns, T. Skouteris, and W. Werner, 'The League of Nations and the Construction of the Periphery Introduction', (2011) 24(4) *Leiden Journal of International Law* 797; F. Johns, T. Skouteris, and W. Werner, 'Editors' Introduction: Alejandro Álvarez and the Launch of the Periphery Series', (2006) 19(4) *Leiden Journal of International Law* 875; F. Johns, T. Skouteris, and W. Werner, 'Editors' Introduction: India and International Law in the Periphery Series', (2010) 23(1) *Leiden Journal of International Law* 1; F. Johns, T. Skouteris, and W. Werner, 'Editors' Introduction: Taslim Olawale Elias in the Periphery Series', (2008) 21(2) *Leiden Journal of International Law* 289.

[10]E. Cusato et al., 'In Praise of Multiplicity: Suspending the Desire to Change the World', (2024) 37(1) *Leiden Journal of International Law* 1.

[11]E. van Sliedregt, 'One Rule for Them – Selectivity in International Criminal Law', (2021) 34(2) *Leiden Journal of International Law* 283; J. Powderly, 'International Criminal Justice in an Age of Perpetual Crisis', (2019) 32(1) *Leiden Journal of International Law* 1; E. De Brabandere, 'International Dispute Settlement – from Practice to Legal Discipline', (2018) 31(3) *Leiden Journal of International Law* 459; J. Morgan-Foster, G. Pinzauti, and P. Webb, 'The International Court of Justice in the Leiden Journal: A Retrospective', (2017) 30(3) *Leiden Journal of International Law* 571.

[12]D. Peat and C. Rose, 'International Law from the Outside: Insights from the Dutch Research Council (NWO)', (2022) 35(1) *Leiden Journal of International Law* 1; S. Trevisanut, 'News Coverage by Scholarship', (2018) 31(4) *Leiden Journal of International Law* 741; G. Gordon, 'Indicators, Rankings and the Political Economy of Academic Production in International Law', (2017) 30(2) *Leiden Journal of International Law* 295.

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boundary policers[13] or our own achievements, despite commitments in principle.[14] Since its inception, the journal has maintained an attitude of dynamism, overhauling its structure and sections in keeping with 'the changing audience, environment, and needs of the scholarly community', as noted in an editorial reflecting on our first 30 years.[15] In all of this, of particular importance to us, is one anecdotal but often heard, fact – a great many voices in international law have had their debut publication in our journal. Nurturing early career scholarship is part of the long ethos of the journal, first set up to provide a venue for student publications in international law. And this means that, quite apart from other efforts we do and could further make towards exploring our own blinkers or biases,[16] we do not seek to make snap or superficial judgments about quality: we seek to work *with* authors on framing, language editing, and contextualizing the importance of their contributions.

We cannot, however, commit to working towards publication for everything interesting that comes our way – no journal can do that. We do, of course, turn away articles where we do not see a pathway to publication, and this may be before or after a round of peer reviews. From time to time, we also have to let go of promising submissions or symposium proposals in the interests of curating an overall balance of themes and topics. But where we see a promising core to a piece, our sections do their best to scaffold it and bring it to publication. It matters to us not only that we offer a debuting platform for many scholars, but also that they can continue to take pride in their LJIL articles, long after the work has been out in the world. We thus perceive our transition to open access as *one* part of a broader effort.

4. Fostering 'wonder and curiosity': LJIL and *Legal Sightseeing*

The move to open access, although carrying no sinister implications for authorial inclusion or article packing, does imply one important change for the journal. From this volume onwards we have become an exclusively online journal, printing *no* paper issues. This permits us some saving on costs, and speaks to the observed pattern of LJIL access – the downloads far exceed the numbers of printed copies. We recognize that some people regret this change. But for us, it also opens new opportunities, to reimagine our content.

And so, we were very excited to unveil in issue 2 of this volume, a new section. Having had the project founders on our editorial board for several years,[17] we are delighted to integrate *Legal Sightseeing* into the LJIL. As Sofia Stolk and Renske Vos explained in a previous LJIL editorial:

> If one takes an approach of wonder and curiosity, encounters with international law can be found in unusual places, sometimes accidental or with unintended effects. Through such occurrences, we have become interested in how international law is presented to 'the public', and in turn in what that public shows up for, and how art often is a mediator in that encounter. The question that drives our engagement with these sites and practices of legal sightseeing is: what is international law doing here? There are at least two ways of

[13]S. Kendall, 'On Academic Production and the Politics of Inclusion', (2016) 29(3) *Leiden Journal of International Law* 617; I. Venzke, 'Against Impact', (2024) 37(4) *Leiden Journal of International Law 757*; M. Kanetake, 'Blind Spots in International Law', (2018) 31(2) *Leiden Journal of International Law* 209.

[14]P. Baldini Miranda Da Cruz, 'Gender at the LJIL', (2023) 36(1) *Leiden Journal of International Law* 1; J. D' Aspremont and L. van den Herik, 'The Public Good of Academic Publishing in International Law', (2013) 26(1) *Leiden Journal of International Law* 1. See also J. Powderly et al., 'Editorial: Addressing Issues and Concerns Raised by the Publication of the "Gaza Marine Article"', (2025) 38(1) *Leiden Journal of International Law* 1.

[15]E. De Brabandere and I. Venzke, 'The Leiden Journal of International Law at 30', (2017) 30(1) *Leiden Journal of International Law* 1.

[16]See Powderly et al., *supra* note 14.

[17]Sofia Stolk, who rejoins the Board, was an editor of the International Legal Theory Section for several years until 2023, Renske Vos is a current editor of that section.

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> understanding this question. On the one hand, it opens-up from our amazement at the manifestation of and encounter with international law at a particular instance: what is *it* doing here?! On the other hand, we wonder what it does to bring international law to this encounter: what is it *doing*?[18]

Have a tour with Sofia and Renske as they reflect on these questions, and do also check out the stopping place for this issue: Kerttuli Lingenfelter takes us to Helsinki Central Station, which is the realization of a design proposal originally meant for the Peace Palace.

Legal Sightseeing will be a regular section of the LJIL, and on our website you will find instructions for how to submit entries for it.[19] As well as this new section, thinking is furiously apace on retooling and introducing yet other ones. We cannot say more yet, but: watch this space!

[18]S. Stolk and R. Vos, 'International Legal Sightseeing', (2020) 33(1) *Leiden Journal of International Law* 1.

[19]New Legal Sightseeing Section, available at www.cambridge.org/core/journals/leiden-journal-of-international-law/information/author-instructions/preparing-your-materials.

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