

Editorial

# Prospects of Multilateralism

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Hard-pressed, that would have to be my answer to the question whether I could think of a more fascinating time to dig into the subject matter of international law on the international diplomatic playing field it so desperately seeks to dominate. With Syria still in turmoil, Palestine now in possession of an international 'birth certificate' in spite of strong American-led reluctance thereto and political tensions rising in areas of Northern and Sub-Saharan Africa all too familiar to such tensions, the global economic crisis still only sporadically shows signs of relaxing the iron-like grip by which it has seized much of the 'North'. Whereas students of international legal multilateralism one generation ago were bustling with new found optimism in the ruins of the Iron Curtain, the dust not even fully settled, pessimism seems to roam freely this time around. Pessimism about the elasticity of capitalism, the redistribution of global wealth and most of all about the prospects of international legal multilateralism presses down hard on the academic discipline of international law and the students it entertains.

Having properly set the stage, Amsterdam Law Forum proudly presents to you its 2012 Fall Edition. The five articles of which it is composed reflect upon one of the grounds for potential pessimism earlier mentioned. Some *in abstracto*, others *in concreto*, reflect on the prospects of international legal multilateralism, making it the narrative of the Amsterdam Law Forum edition before of you. A reading of any of the articles to follow will provide the reader with yet another angle or framework from which to critically assess such strained prospects.

The first article by Barbora Hola reflects on sentencing practices at the two ad-hoc tribunals, the International Criminal Tribunal for the former-Yugoslavia (ICTY) and for Rwanda (ICTR) respectively. Consistency is the sought-after commodity, a fundamental liberal-democratic principle of fairness to be traced back to Aristotle's definition of equality as 'giving the same to those who are alike.' Positive law proves to be a rather weak basis upon which to build a solid, consistent sentencing practice. With *stare decisis* not formally applicable, consistency appears to be in danger of being left to the whims of the Trial Chambers. Hola's analysis of ICTY and ICTR case law reveals that there is little reason for fearing such a lack of consistency in sentencing practices. Despite the absence of formality, the judges have taken upon themselves the responsibility to consistently apply such legal principles as 'proportionality', 'totality' and 'gravity' in their sentencing practices, ultimately giving the same to those who are alike.

Equal treatment also features prominently in the article by Sijie Chen. China's accession to the World Trade Organization (WTO) animated a fascinating darker side of international economic law, known as WTO-plus obligations. The imposition of additional requirements above and beyond the regular requirements for WTO accession is an accepted yet no less controversial legal feature, as Chen demonstrates. Transparency is of great concern to diplomats and international investors alike, yet one could question the effectiveness of imposing more stringent requirements as a means of compelling China towards the desired levels thereof. The insight into the complex Chinese legal system offered by Chen reveals that the Washington Consensus can no longer simply ignore its Beijing counterpart.

The third and final scientific article by Machiko Kanetake touches upon a highly sensitive topic, a topic faced only reluctantly by the international community. Ever since the late 1990s, sex scandals involving United Nations peacekeepers have raised many ethical questions. Kanetake addresses the controversial international legal question of responsibility for such acts and proposes an alternative conceptualisation of its problematic potential. The issue contains not just a legal but also a political boundary, the problematic potential of which is to be located in the middle grounds between such boundaries. While the political responsibility rests upon the UN, it cannot take legal matters into its own hands as it is located within the sovereign parameters of the member states. An effective zero-tolerance policy, following Kanetake's analysis, must first address this discrepancy between the legal and political boundaries of an issue striking at the heart of the perceived credibility of UN peacekeeping missions.

Moving on to our opinion section, Martijn Dekker asks us who ought to be given a monopoly on the responsibility to protect. The international community seems to be frozen in disbelief over the inaction of the Security Council, leaving the Syrian pleas for protection unanswered with the passing of each day. Too long has human security been understood as a concept originating exclusively from above; or so Dekker finds. A case study of both the Bosnian and the Iraqi intervention reveals the conflict resolving potential of supplementing such a top-down approach with local empowerment; facilitating the protection of human security not just from above but also from below. The effectiveness of the reconsidered responsibility to protect here argued for holds particular relevance in times when multilateralism alone seems dysfunctional.

Last, but certainly not least, it is a great honour to present to you as the final piece of our 2012 Fall Edition a review of *Interventions*, the latest publication by former UN Secretary-General Kofi Annan in cooperation with Nader Mousavizadeh launched just days after stepping down as mediator in the Syrian conflict. Koen Davidse is certainly no stranger to the particularities of the UN organisation as the current Director multilateral and human rights at the Dutch Ministry of Foreign Affairs and former Research Director UNSG High-Level Panel on UN System-Wide Coherence at the UN, making his reflections upon the book inspired by over forty years of UN experience a fascinating read in and of itself. Reading Davidse's informed distillation of Kofi Annan's *Interventions* is not unlike receiving a crash course and master class on the importance of effective multilateralism centred at the UN all at once. It is all one needs to convince oneself to seek a copy of this must-read for all students of international affairs.

As strained as the prospects of multilateralism may seem, the articles to follow should also illuminate the possible grounds for optimism. A constructive academic approach should never lose sight of either the positive or the negative aspects of international legal reality and dwell on but one side of the coin. As the new Editor-in-Chief of Amsterdam Law Forum, I look forward to continue the outstanding work of my predecessors towards facilitating such a constructive academic approach to the best of our abilities. With the help of a motivated team of student editors, I hope Amsterdam Law Forum will further evolve into an academic forum in the proper sense of the word. Without further ado, I present to you the 2012 Fall Edition of Amsterdam Law Forum.