

## EDITORIAL

# The Politics of International Law and the Perils and Promises of Interdisciplinarity

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In the previous editorial, Larissa van den Herik and Jean d'Aspremont referred to LJIL's 'special plural identity'.<sup>1</sup> On the one hand, this plurality shows in its table of contents; on the other hand, the plural identity is equally – if not even more – treasured in terms of appreciating the plurality of voices within the legal discipline, as the editors-in-chief also highlight. Diversity and heterogeneity are an asset for academic debate, and LJIL as such seeks to provide a forum for scholars from different 'paradigms'. The appreciation of diversity and plurality is also reflected in the interest of LJIL to look beyond the confines of the legal discipline itself and engage with external perspectives to foster discussions about international law. It is in light of this open-mindedness and the wish to reach out to non-legal audiences, and to the international relations community in particular, that I was invited to join the LJIL team some years ago.<sup>2</sup> Whereas there is a growing audience of IR scholars genuinely interested in (theorizing) international law, LJIL is not very well known as a journal with that profile for its International Legal Theory section. As a leading scholar in IR once remarked: 'LJIL is the best kept secret in IR'.<sup>3</sup> So when the request came for me to write an editorial, it seemed only apt to reflect upon some of the perils and promises of interdisciplinarity from my experience as an IR scholar within the LJIL editorial board.

The history of the disciplinary fission of IR from IL is well known and need not be repeated in detail here. According to the disciplinary narrative, IR was established with a first chair in Aberystwyth after the First World War in order to generate academic knowledge to prevent another Great War. Its failure to do so was diagnosed

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\* Transnational Legal Studies, VU University, Amsterdam [t.e.aalberts@vu.nl]. My thinking on interdisciplinarity has been greatly influenced by discussions and long-term interdisciplinary co-operation with Thomas Gammeltoft-Hansen and Wouter Werner, including co-authored papers on this subject (T. E. Aalberts and W. G. Werner, 'Discipline, Recht en Politiek en de werking van soevereiniteit', (2009) 38 *Vrede en Veiligheid* 164; T. E. Aalberts and T. Gammeltoft-Hansen, 'International Law and International Relations: Should We Agree Just to Date?', paper presented at the COST Action IS1003 workshop, 'Rezoning the International?' Krakow, 20–2 September 2012). I would like to thank Jean d'Aspremont, Yannick Radi, and Ingo Venzke for their helpful comments on an earlier draft of this article.

- 1 J. d'Aspremont and L. van den Herik, 'The Public Good of Academic Publishing in International Law', (2013) 26 LJIL 1.
- 2 MA International Relations theory, PhD Political Science. I did several courses in law, have always been working on or with law, have co-authored with lawyers, have published in law journals, and have recently joined a law faculty, but I never finished or started a law degree.
- 3 Alexander Wendt, in his recommendation letter for the submission of LJIL to the Social Sciences Citation Index.

as a lack of scientific rigour, which after the Second World War led to a further distancing from normative reasoning and utopian vistas and a move to scientism under the influence of the behaviouralist turn in the United States. Against this background, it is only prudent that after the academic separation of politics from law, the disciplines focused on defining their identity in juxtaposition. At least in its international variants, this led to a clear division of labour, as famously formulated by Hans Morgenthau: ‘the political realist maintains the autonomy of the political sphere [and] thinks in terms of interest defined as power . . . the lawyer, of conformity of action with legal rules’.<sup>4</sup>

While still a popular depiction in political-legal discourse, and a clear categorization for the students, it has since long been overtaken by developments in world politics and within the disciplines themselves. In terms of the former, it is the familiar story of the increasing institutionalization, judicialization, and constitutionalization (and/or legal fragmentation) of the international realm, with a proliferation of legal regimes, supranational institutions, and tribunals. Apart from this process of ‘legalisation of world politics’,<sup>5</sup> developments in international law are equally inter-twined with international politics. As for instance acknowledged by Judge Alvarez in the *Corfu Channel* case,

Jurists, imbued with traditional law, have regarded international law as being of a strictly juridical character; they only consider what they describe as pure law, to the entire exclusion of politics as something alien to law. But pure law does not exist: law is the result of social life and evolves with it; in other words, it is, to a large extent, the effect of politics – especially of a collective kind – as practised by the States. We must therefore beware of considering law and politics as mutually antagonistic. Each of them should be permeated by the other.<sup>6</sup>

These developments have not gone unnoticed in academia. Approaches like the New Haven school, international legal process scholarship, and critical legal studies in IL and for instance the English school, constructivism, regime theory, and liberal institutionalism in IR have since long sought to engage with these empirical developments and confront the relationship between law and politics head-on. Since the late 1980s, these primarily disciplinary initiatives to include respectively politics or law in their research agendas have been supplemented by continuous calls for inter-disciplinarity, heralded by Kenneth Abbott’s 1989 prospectus.<sup>7</sup> Despite the wish to counter the realist portrayal of international law as a mere epiphenomenon in the international realm, many of the interdisciplinary projects start from the legacy of Morgenthau, reflected in the popular identification of international relations as primarily concerned with empirical reality versus international law as focused on

4 H. J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace* (1985), at 13.

5 Special issue in 54 *International Organization* 401 (2000).

6 *Corfu Channel Case (United Kingdom of Great Britain and Northern Ireland v. People’s Republic of Albania)*, Judgment of 9 April 1949, ICJ Rep, at 41–2 (Individual Opinion Judge Alvarez).

7 K. W. Abbott, ‘Modern International Relations Theory: A Prospectus’, (1989) 14 *YJIL* 335. There is no room here to engage with the vast literature on IL/IR scholarship that has emerged since. A good starting point is the discussion of the state of the art in R. J. Beck, ‘International Law and International Relations scholarship’, in D. Armstrong (ed), *Routledge Handbook of International Law* (2009).

questions of normativity. However, starting from such a categorization of the disciplines based on the optics of ‘what works’ versus ‘what ought to work’,<sup>8</sup> any attempt for *interdisciplinary* bridge building is doomed to fail and result in imperialism, as Klabbers warned us in his critical review of attempts at interdisciplinarity with the telling title ‘The Bridge Crack’d’:

Interdisciplinary scholarship is, more often than not, about imposing the vocabulary, methods, theories and idiosyncrasies of discipline A on discipline B. Interdisciplinarity, in a word, is about power, and when it comes to links between international legal scholarship and international relations scholarship the balance tilts strongly in favour of the latter.<sup>9</sup>

Abbott’s initial formulation of the interdisciplinary project is probably the clearest testimony of this danger. His prospectus is focused on introducing international legal scholars to regime theory and rationalism as a way to reintegrate IL and IR. International lawyers have to transform from ‘formalists’ to ‘functionalists’ and learn to generate hypotheses. For their part, IR scholars can use IL as an ‘immense reservoir of information about legal rules [or as] the raw material for the growth and application of the[ir] theory’.<sup>10</sup>

Coming from a discipline notorious for its paradigmatic wars, the role of power in knowledge production is all too familiar to me. While euphemistically referred to as the Great Debates in IR historiography, intellectual exchange was largely absent as alternative approaches were dismissed as ‘utopian’ or ‘unscientific’ and hence illegitimate as academic sparring partners for the mainstream. As Kuhn already warned us with his famous incommensurability thesis, paradigms ‘are directed not only to nature [substance] but also back upon the science that produced them’, and hence there are no extra-paradigmatic standards of assessment to settle paradigmatic disputes.<sup>11</sup> Calls for dialogue between newstream and mainstream indeed testified to the normalizing power of disciplines,<sup>12</sup> as the president of the International Studies Associations formulated the parameters for dialogue in terms of the positivist research tradition that was the kernel of the newstream or post-positivist challenge.<sup>13</sup> The point here is that while the dangers of hierarchical imposition and academic colonialism indeed have proven to be very real, this may have less to do with disciplinary boundaries per se than with different ontological, epistemological, and

8 R. O. Keohane, ‘International Relations and International Law: Two Optics’, (1997) 38 HILJ 487.

9 J. Klabbers, ‘The Bridge Crack’d: A Critical Look at Interdisciplinary Relations’, (2009) 23 *International Relations* 119, at 120. See also Koskenniemi’s reference to the liberal institutionalist call for interdisciplinarity as an American crusade (M. Koskenniemi, *Gentle Civilizer of Nations* (2004), at 483–4). While this tendency to export IR concepts characterizes many interdisciplinary projects in international law, in its relation to other disciplines IR is actually more often accused of merely importing theories and concepts (D. Long, ‘Interdisciplinarity and International Relations’, in P. Aalto, V. Harle, and S. Moisiso (eds.), *International Studies: Interdisciplinary Approaches* (2011), at 61).

10 Abbott, *supra* note 7, at 334.

11 T. S. Kuhn, *The Structure of Scientific Revolutions* (1970), at 103, 93. While Kuhn was writing about scientific progress in natural sciences, the term ‘paradigm’ and its link between substance and science can serve as a heuristic tool to illuminate the (im)possibilities of interdisciplinarity as opposed to disciplinary research.

12 M. Foucault, ‘Truth and Power’, in C. Gordon (ed.), *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977* (1980).

13 R. O. Keohane, ‘International Institutions: Two Approaches’, 32 *International Studies Quarterly* 379.

methodological views on science and academic research within different research traditions. Both IR and IL have become very heterogeneous or fragmented disciplines on both theoretical and metatheoretical levels. Hence Beck's observation of different perspectives on what constitutes a theory in IR and IL is apt only at a very general level, where IR is identified with a positivist research tradition.<sup>14</sup> This is indeed dominant within particular theoretical approaches, but just as fiercely challenged by others within the discipline.<sup>15</sup> As a result of this (meta)theoretical heterogeneity, many approaches might find easier sparring partners across disciplines than within their 'own' academic community, due to so-called shared background sensibilities,<sup>16</sup> or more specifically family resemblance or kinship in social theory and philosophy of science. To paraphrase Alvarez, we should beware of considering IL and IR as given, unified, and by definition mutually antagonistic disciplines. By extension, ontological dissonance, and the idea of different cultures or discourse communities – often highlighted as other crucial impediments to interdisciplinarity – indeed are important factors, for both inter- *and* intra-disciplinary dialogue or collaboration.

In his review of the discipline in LJIL some fifteen years ago, David Kennedy pointed to a related but different problem of interdisciplinarity: that it would be prone to reproducing blind spots.<sup>17</sup> At face value, interdisciplinarity as such is no different from any other academic endeavour. The very purpose of using theoretical frameworks is that they enable the researcher to distinguish important from less important things. As such they are a double-edged sword, by providing a vernacular that enables one to focus, yet through delineating what can be known and what is sensible to discuss, they also block other, possibly important, things from the researcher's purview. In a sense one could argue this is the flipside of ontological dissonance. If there is too much ontological euphony or common sense, there is the risk of things 'going without saying'. And this can equally impede academic and reflective dialogue because of over-ingrained categories, implicit assumptions, and caricatures.

In this light, the existence of different discourse communities might actually turn out to be a blessing in disguise.<sup>18</sup> Reaching across disciplinary fences in that sense can be very refreshing and inspiring, as it forces one to communicate concepts to an unfamiliar audience that will ask questions out of the paradigmatic or disciplinary box, to confront one's hidden assumptions, and to move beyond self-referentialism to self-reflectivity. As such, it can enhance our academic work as it calls upon our identity not as scholars of a particular paradigm or discipline, but as part of the wider academic community. In this context, Kuhn also adopts the metaphor of language communities, but does so in a productive mode. For him it does not serve as an impediment to interparadigmatic dialogue or as a licence for isolated science, but rather

14 Beck, *supra* note 7, at 15.

15 S. Burchill and A. Linklater, 'Introduction', in S. Burchill et al. (eds.), *Theories of International Relations* (2009), at 11–2.

16 Klabbers, *supra* note 9.

17 D. Kennedy, 'The Disciplines of International Law and Policy' (1999) 12 LJIL 9.

18 For a different standpoint about language communities, see J. d'Aspremont, 'Editorial: Wording in International Law', (2012) 25 LJIL 575.

to highlight the possibility of moving beyond incommensurability of paradigms through the practice and even duty of translation. While perfect communication or a universal, neutral language does not exist, academics must become translators in order to ‘experience vicariously something of the merits and defects of each other’s points of view’.<sup>19</sup> The instructions to his students are very clear:

When reading the works of an important thinker, look first for the apparent absurdities in the text and ask yourself how a sensible person could have written them. When you find an answer, . . . when these passages make sense, then you may find that more central passages, ones you previously thought you understood, have changed their meaning.<sup>20</sup>

This could be a very constructive mental note for anyone engaging in interdisciplinary research, too. There is one important caveat, though, and that is a genuine interest in interdisciplinary dialogue, driven by curiosity, intellectual exchange, and real engagement, accepting the other (discipline) as different and equal at the same time.<sup>21</sup> This means refraining from making caricatures, straw men, or prostitutes of the other discipline, as well as being ready to face the limits and biases of my own perspective. As such, interdisciplinarity can be characterized as a mental outlook that combines curiosity with open-mindedness and a spirit of adventure and discovery.<sup>22</sup> Unfortunately, such open-mindedness is often precluded by the reproduction of blind spots. Kennedy’s comment in this regard relates not just to the aforementioned level of theory, but first and foremost to

the degree to which individuals are not blinded *by* their disciplinary commitments, but instead rush headlong to establish, embrace, and embellish their discipline’s blind spots and contradictions. Their disciplinary sensibility is as much about desire, construction, and work as it is about error or ignorance. As a result, I am increasingly convinced that a disciplinary sensibility does not precede the people who occupy it, but is their common project, made and remade as they pursue the projects of their hearts and heads.<sup>23</sup>

This desire for disciplinary identity and certainty could in the context of IL/IR again originate in their fission as separate disciplines. Moreover, in light of earlier hegemonic practices of interdisciplinarity, it seems to be transformed into an anxiety among international lawyers to save the discipline’s autonomy.<sup>24</sup> However, the acuteness of this danger and the need to counter it to a large extent depend on the ultimate aim of interdisciplinarity, and how one sees its relationship to

19 Kuhn, *supra* note 11, at 201–2.

20 T. S. Kuhn, *The Essential Tension* (1977), at xii. While this could be read as a search for the true meaning of the text as derived from its wording, it rather highlights how reading is interpretation and a temporal and communal experience, as Stanley Fish also teaches us (S. Fish, *Is There a Text in This Class? The Authority of Interpretive Communities* (1980)). His identification of the ‘informed reader’, however, is dependent upon her capacity as a competent speaker of the language, which seems to ignore the temporal experience of translation as part of the reader’s subjectivity that Kuhn hints at.

21 T. E. Aalberts and R. van Munster, ‘From Wendt to Kuhn: Reviving the “Third Debate” in International Relations’, (2008) 45 *International Politics* 720.

22 OECD, *Interdisciplinarity: Problems of Teaching and Research in Universities* (1972), at 285.

23 Kennedy, *supra* note 17, at 13.

24 See for instance D. J. Bederman, ‘What’s Wrong with International Law Scholarship? I Hate International Law Scholarship (sort of)’, (2000) 1 *CJIL* 75; J. Klabbers, ‘The Relative Autonomy of International Law or the Forgotten Politics of Interdisciplinarity’, (2005) 1 *JILIR* 35.

disciplinary knowledge(s). If presented as the solution to the problem of disciplinary fragmentation, and to secure the production of unified knowledge through integration, synthesis, or even replacement of disciplines,<sup>25</sup> then defensive moves seem warranted. However, if the paradigmatic wars in IR may for once serve as a positive example, in the long run they seem to have resulted in the gradual move beyond the holy grail of grand theorizing and epistemological absolutism to an endorsement of engaged pluralism, eclecticism, and question-driven research.<sup>26</sup> In such a context, complete integration of IL and IR – if possible in the first place – is neither necessary nor desirable. To paraphrase Alvarez once more, we should be aware of considering disciplinarity and interdisciplinarity as mutually antagonistic research projects. Interdisciplinarity is not a call against disciplinary knowledge; it is at least partly dependent upon it. And the question whether interdisciplinary collaboration is productive and worth exploring cannot be settled in the abstract, but depends in the first place on the specificities of our puzzlements and/or the questions we want to answer. At the same time, we should avoid reifying disciplinary boundaries driven by defensive anxieties. And here Kennedy's remark is illuminating too, as it reveals an understanding of academic disciplines as social practices, with constructed identities and contingent boundaries. If we are more aware of how these practices constitute our disciplines and our own disciplinary identities, there might also be less need to be anxious about their future and more room for exploring our identities as part of a larger academic community.

To conclude: this is not to saddle IL and IR with a new utopia – that of interdisciplinarity – or to fuse them within a new IL/IR discipline altogether. Interdisciplinarity is neither a goal as such nor a panacea. The perils and problems are real, but not necessarily unique to interdisciplinary research. From my own experience in crossing disciplines, my guess is that the problematizations might overdo the importance of disciplinary boundaries as a crucial axis of difference, ignoring the heterogeneity of both disciplines on (meta)theoretical levels, as well as the family resemblances across them. If there seems amongst both IL and IR scholars to be a growing awareness of and interest in the interplay between politics and law in the international realm, then reaching beyond one's own discipline – and there is no need to limit oneself to these respective disciplines – can be very enriching. As if replacing a vernacular with 3D glasses, it can add new dimensions to our views on (and of) the world, opening up a wealth of new perspectives, interesting puzzles, and illuminating concepts and ideas. It is in this light that I treasure LJIL's plural identity, as it seeks to provide a forum for engaged pluralism, both within and beyond the discipline.

25 OECD, *Interdisciplinarity: Problems of Teaching and Research in Universities* (1972), cited by R. C. Miller, 'Interdisciplinarity: Its Meaning and Consequences', in R. A. Denemark (ed.), *The International Studies Encyclopedia*. Blackwell Reference Online (2010).

26 See Y. Lapid, 'Through Dialogue to Engaged Pluralism: The Unfinished Business of the Third Debate', (2003) 5 *International Studies Review* 128; F. Kratochwil, 'The Monologue of "Science"', 5 *International Studies Review* 124; R. Sil and P. J. Katzenstein, *Beyond Paradigms: Analytical Eclecticism in the Study of World Politics* (2010).