President’s Message: The State of the Society
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ESIL Newsletter: June 2017

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1. President's Message: The State of the Society
André Nollkaemper

Dear colleagues,

This is the last 'President's Message' that I will write before handing over the presidency at the upcoming ESIL Annual Conference in Naples, and it provides me with a good opportunity to reflect on the state of the Society.

When the Board elected me as president, I set several objectives for moving the Society forward. These objectives were a sustained growth in membership, a better representation of ESIL in the various regions of Europe, a better connection between the academic and professional activities and the members of the Society, and a further professionalization of the Society and its secretariat.

The last point is perhaps the most important. All the other ambitions of the Society will come to naught if not supported by a professional secretariat with sufficient capacity. Here, we could not have done better. The ESIL secretariat, based at the European University Institute’s Academy of European Law, has been in the excellent hands of Joyce Davies and Valentina Spiga, now joined by Hélène Debuire Franchini. Whereas the optimal size of the secretariat needed to match the scope of the Society's activities will need to be under continuous scrutiny, it is important to note that the increase in membership has led to a sufficient increase in funds that will enable the Society to secure that match.

The Society has done well in reaching the aim of a sustained growth in membership: the total number of members has been slowly but steadily increasing each year. The Board has discussed ways to further increase membership in lower-income countries and a proposal for reducing membership fees for members from...
those countries who are unable to pay the full fee will be presented at the General Assembly in Naples.

We have also done well in terms of spreading the Society across Europe. While the Society has sometimes been seen as predominantly North-Western European, this is no longer an accurate reflection of the actual activities of the Society – indeed, in the last few years the Society has become more truly European than ever. In the last year alone, ESIL events have taken place in Istanbul, Prague, Granada, and Kyiv, allowing the Society to engage with new groups of international lawyers. There is certainly more to be done, but we are on the right track. The Naples conference, for which the available 500 places are quickly being filled, will be the next event on the agenda, and a range of activities in many different parts of Europe are in preparation for the years ahead.

In terms of bridging the connections between academia and practice, more work needs to be done, in particular by involving private practitioners more in the work of the Society. Perhaps the Society is too often (rightly or wrongly) seen as more interested in doctrinal and theoretical questions, not offering enough for those (potential) members who seek concrete leads on particular legal questions. At the same time, the ongoing cooperation with international courts (both the European Court of Human Rights and the European Court of Justice) has now provided a firm basis on which the Society can build – to the mutual benefit of the courts and the members of the Society.

On each of the above points, the Society has made good progress. Of course, more can be done but if there is one lesson I have learned during my term as president, it is that the speed of progress in a society like ESIL depends most of all on the ability of its members to find time for ESIL activities alongside all their other professional commitments. From this perspective, it is remarkable that, thanks to continued input from so many of you – in particular, Board members, local organisers of ESIL events, and all the committed Interest Group conveners - the Society is where it is now.

I look forward to seeing you in Naples,

André Nollkaemper
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2. Future ESIL Board composition

The future composition of the ESIL Board was discussed during the Board meeting on 1 April 2017. The mandate of the current President, André Nollkaemper, ends in September 2017, and elections for the next President were held. Voting was conducted in the week following the meeting and the Board is pleased to inform members that Luis Hinojosa was elected as President-Elect for the 6-month period until the Annual Conference in Naples this September when he will take over as ESIL President.

The composition of a new ESIL Executive Committee (comprising President, Vice-Presidents, and Secretary-General) for the period September 2017 – September 2019 will be approved by the Board at their meeting in Naples on Wednesday 6 September, and the result will be announced to the membership during the General Assembly on Friday 8 September.

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Sarah M.H. Nouwen, University of Cambridge

‘How do you respond to the criticism that your work is not really law?’ a most senior Professor of International Law, well known to this Society, asked as the opening question in my job interview for, indeed, a lectureship in law. On the spur of the moment I retorted: ‘I see it as a compliment.’ That the Committee nonetheless made me an offer is testament to my employer’s, and the specific interviewer’s, intellectual openness. However, my then seemingly self-confident answer belies an on-going process of self-questioning about the issues I am exploring and the approaches I adopt to do so.

As scholars we can consider ourselves rich if we have, and value, the liberty to set our own research agendas. Barring the time taken up with administrative duties or compulsory courses, we are largely free, at least in ideal circumstances, to decide what we spend our days (and nights) researching. Compared with legal practice, where there usually is a boss or client waiting for my work, this freedom also comes with questions about whether I am using my time in a fruitful way. (By fruitful, I do not mean productive: as my PhD supervisor used to tell me, ‘Everybody can produce a zillion words!’) Is my research meaningful? Am I asking relevant questions?

Hence my relief to read André Nollkaemper’s ‘President’s Message’ posing ESIL the same question. Reflecting on the Riga conference on “International Law in Times of Crisis”, he notes that important questions remain unanswered, in particular empirical ones. But the significance of his question “Do we ask the right questions?” goes beyond the need for empirical perspectives. The world is burning with visible and less visible injustice. Yet both ESIL and the field of international law more generally seem to struggle with addressing this directly.

At least three common practices seem to stand in the way of identifying important questions. First, choosing research questions on the basis of “gaps” in the literature. How can a gap in the literature lead to a relevant question if the literature itself is irrelevant? Are we not just filling a wall of irrelevance? A second obstacle is the practice of applying one’s methodology to a new field in order to, indeed, apply the methodology. We keep hammering, irrespective of whether we are aiming at nails or something else. The third problematic practice, the one I have most difficulty of letting go of myself, is that of identifying questions on the basis of one’s disciplinary training: the assumption that, because I have been trained as an international lawyer, I must ask a (doctrinal) question about international law.

These practices may originate in modesty: ‘This is what I have been trained to do and some approaches extend beyond my training.’ I am not advocating for...