


EDITORIAL

MAIEUTIC OR MEDDLESOME? REFLECTIONS ON THE ROLES OF THE JOURNAL AND THE AUTHOR

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Maieutic (adj.), from *maieutikos*, the Greek word for ‘of midwifery’. The Socratic method for assisting someone in clarifying their ideas.

Meddlesome (adj.), from Latin *miscēre* to mix. To interest oneself in what is not one's concern.¹

There is a fair amount of road to travel between a submitted draft and a published article. For authors, publishing takes time, effort, and in some journals, a significant monetary contribution as well. For editors and peer reviewers it also entails a fair amount of (usually unpaid) labour. By one estimate,² scholars and scientists globally spend more than 15,000 years peer reviewing annually and, to that, we would have to add the significant amount of time spent revising articles, copy editing, formatting and generally making pieces ready for publication. So, free it is not; even at a Diamond open access journal³ such as ours. Since publishing incurs costs, it is worth enquiring at regular intervals into what sort of added value academic publishing and peer review contributes, for the author, for the editor, for the legal community, perhaps even for the world.

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¹ Definitions by Merriam-Webster shortened by the author.

² Balazs Aczel, Barnabas Szaszi and Alex O. Holcombe, 'A billion-dollar donation: estimating the cost of researchers' time spent on peer review', 6 *Research Integrity and Peer Review* (2021)

³ i.e. where scholars are not charged for making their articles available open access, <<https://www.scienceurope.org/our-priorities/open-access/diamond-open-access/>> Accessed 21 August 2023.

It is widely recognised that academia as a whole is in the midst of a peer review crisis.⁴ Editors from the natural sciences to the humanities and everywhere in between are finding peer reviewers declining to review, not responding to requests, or ghosting them after having agreed to review. The whole debacle is slowing publication times down, frustrating authors and editors alike. Would-be reviewers cite not being remunerated or appreciated and reviewing not counting towards tenure as reasons not to review. There is even an increasingly vocal minority suggesting getting rid of peer review altogether, and academic publishing with it.⁵ The argument goes that publishing in peer reviewed journals causes delays in article publication, makes authors overly cautious and repetitive and therefore ultimately articles more boring to read, snuffs out great ideas and does nothing to keep bad work from being published. In a world before digital publishing, the argument goes, perhaps peer review could keep poor ideas out of print, but with the advent of the internet, anyone can publish their rejected articles anyway, if not as working papers or in paper repositories such as SRRN or ResearchGate, then on their own blogs.

The indictment is a grave one, but it only rings true if the journal is merely a gate keeper. In this position the journal would at best check for plagiarism and evaluate the soundness of the research and clarity of argument. At worst it could perpetuate a particular academic culture and discriminate against work going against a common narrative or failing to exhibit the right linguistic markers of class belonging. Additionally, if journals are only gate keepers, they are not very successful ones. With the thousands of journals in existence, authors are spoiled for choice and can simply send their rejected articles along to the next journal unchanged, hoping for less attentive editors

⁴ Lynn E. DeLisi, 'Editorial: Where have all the reviewers gone?: Is the peer review concept in crisis?', 310 *Psychiatry Research* (2022) ; Maria Petrescu and Anjala S. Krishen, 'The evolving crisis of the peer-review process', 10 *Journal of Marketing Analytics* (2022)

⁵ Adam Mastroianni, 'Title', Volume *Experimental History* (2022)<accessed 6. July 2022.

and reviewers. This may even happen when articles are rejected for plagiarism since there is no field-wide mechanism chastising plagiarising authors or keeping their work from being resubmitted elsewhere and potentially getting published.

But what if the act of reviewing and editing itself contributes with some value to the article? Rather than simply stating whether an article can be published or not, editing ought to be a dialectic process where readers ask questions of the author, encouraging them to improve their argument, consider counterarguments and, if presented with too much counterevidence, abandon their idea.

At this journal we were once complimented by an author as having done a ‘marvellous maieutic job’. Maieutics is the act of assisting in the birth of an idea. The term originates from Plato’s dialogue ‘Theaetetus’ in which Socrates meets a young man of that name and questions him about the nature of knowledge. At one point during the dialogue Socrates explains why he is interrogating Theaetetus, stating that the young man seems to be pregnant with an original thought,

I tell you this long story, friend Theaetetus, because I suspect, as indeed you seem to think yourself, that you are in labour with some great conception. Come then to me, who am a midwife's son and myself a midwife [of ideas], and do your best to answer the questions which I will ask you.⁶

In terms of praise, being compared with Socrates is not half bad, nor, I say as someone who has given birth, is being compared with midwives. Socrates did however also state in that dialogue that he was himself barren of ideas, which I very much hope does not describe the general state of the editorial board,

⁶ Plato (Translated by Benjamin Jowett), *Theaetetus* (*Classics of Ancient Greek Philosophy*) (360 B.C.E)

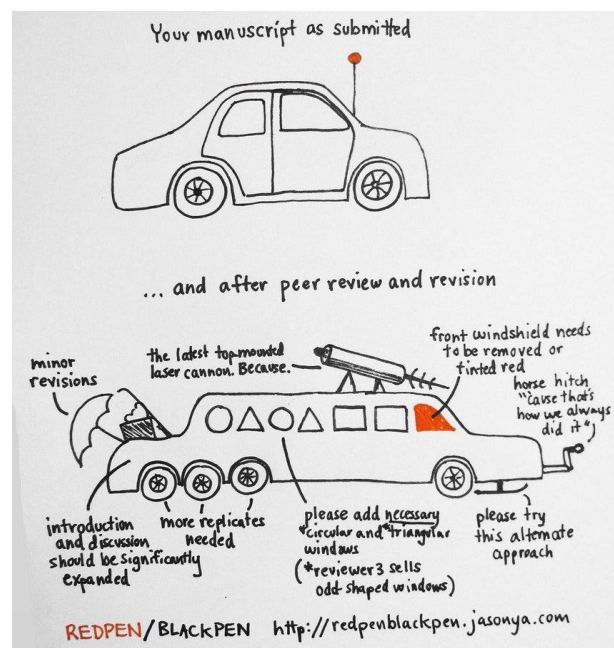
‘I am not myself at all wise, nor have I anything to show which is the invention or birth of my own soul, but those who converse with me profit’,

Subjecting one’s work to critique and questioning is beneficial for any kind of scholarly or scientific endeavour, but for the fields within the scope of the EJLS – international, European, and comparative law as well as legal theory – a dialectic approach is particularly valuable. While we also publish empirical legal scholarship, many of the submissions we receive are more traditional doctrinal pieces. Such pieces come in a wide variety of types; those searching for trends in the literature or caselaw, those seeking out non-contradictory solutions to a fragmented legal landscape, those carving out general legal principles that apply across multiple jurisdictions, and those uncovering inconsistencies in legal practice. A common feature of these diverse types of scholarship is that the quality of the article lives and dies with the quality and comprehensiveness of its argument. Whereas an empirical field may make use of experiments of limited scope, incomplete musings in legal theory or half-done overviews of the caselaw on a topic are about as useful to readers as a hammer without a handle.

Another common feature in international law and related fields, is that a lot of us are working in our second, third or even fourth language. This means that for such work, perhaps even more so than for empirical work, subjecting your ideas to questions, even annoying ones, and having your work encounter a great, perhaps even slightly overzealous copy-editor, is paramount. The best submissions we receive have already been presented, reimagined, written, workshopped and rewritten again with the help of authors’ colleagues, at conferences and seminars. What happens often however is that, when translating such multidimensional and partially oral ideas into the one-dimensional form that text is, insufficiencies in the argument suddenly become apparent and nuances may be lost. It is in this phase that the journal through peer review, editing and copy-editing can apply its maieutic trade. At the EJLS we aim to facilitate this by conducting structured reviews addressing various aspects of each article with substantial feedback even for articles that are eventually rejected. Just like the midwife

however, we cannot give birth for the author, who must ultimately go through the pains of idea-generation and finalisation themselves.

It has also occurred once or twice that we have been accused of being overly meddling or incapable of seeing genius even when right in front of us. It might be the dark side of our maieutic ambition. In certain cases, authors are not aiming to conceive a new great conception but are mainly attempting to increase the length of their publication list with as few hours invested as possible – something there are strong institutional motivations to do when hiring committees and tenure boards rely mainly on quantitative measures of research productivity. In such cases, maieutic reviewers and editors may certainly come off as meddling, going beyond their role as gate keepers. Or it may also be the case that we too occasionally get it wrong, as Jasonya's drawing below suggests.



Socrates had a different response to such criticism, stating that,

And if I abstract and expose your first-born, because I discover upon inspection that the conception which you have formed is a vain shadow, do not quarrel with me on that account... For I have actually known some who

were ready to bite me when I deprived them of a darling folly; they did not perceive that I acted from good will.⁷

Similarly, the editors and reviewers of the EJLS are acting in good will. We aim to conduct a service to the academic community, assisting great ideas in coming to light, and making them available for anyone to read for free, but the ideas, and the labours conducted in turning them into articles, are ultimately the merit of the authors. As is of course the blame should these ideas ultimately be vain shadows or darling follies.

Having thus absolved ourselves of any undue responsibility or merit, I present to you in this issue twelve great conceptions that we have assisted in delivering. The issue begins with three interesting New Voices pieces. Like this editorial, **Cian Moran** utilises a story from ancient Greece in his piece ‘Navigating between Scylla and Charybdis’ to illustrate the inherent conflict between freedom of navigation and maritime security. Staying in the world of waterways, **Giorgia Carratta and Liv Jaeckel** take on the question of global plastics governance, arguing that conceiving plastic pollution as a maritime issue prevents international law from addressing the problem at its root, which is much further upstream. Finally, **Henrique J. B. Marcos** contributes with a legal logic piece differentiating between the consistency of rules and the consistency of statements to show that although fragmented, international law has an internal logic – conversing with the very first article of the very first issue of this journal, Martti Koskenniemi’s ‘International Law: Constitutionalism, Managerialism and the Ethos of Legal Education’.

The issue also publishes four general articles. The first article in this section is **Gerd Winter**’s treatment on the right of standing before the Court of Justice of the European Union. That piece uncovers inconsistencies in the court’s application of the Plaumann formula and suggests a reform of its approach to standing, rebuilding consistency within the caselaw. This is followed by **Barbara Warwas**’ article reframing the debate on multilevel regulation and alternative dispute mechanisms, inspired by historical

⁷ Ibid.

examples of dispute resolution. That piece presents a research framework for a newly established research group on multilevel regulation at the Hague University of Applied Sciences. Following this we have two articles on human rights-related topics. **MariaCaterina La Barbera and Isabel Wences** write about three different ways that Inter-American Court of Human Rights conceptualises gender, while **Emerson Cepeda Rodriguez** contributes with a piece on violence against human rights activists perpetuated under the guise of protecting democracy.

In addition to these regular articles and New Voices pieces, this issue contains a special section on legal imaginaries. This section is guest-edited and curated by **Rebecca Mignot-Mahdavi and Gail Lythgoe**, the latter of which starts off the section with an introductory piece on how academic disciplines limit the imaginaries of scholars and impact the kinds of questions they ask and answers they are willing to accept. The articles within the section are three. The first is written by **Weihang Zhou** who takes on the problem of states' right to self-defence when aggressor states attack from within the territory of a third state. Meanwhile **Armi Bayot** takes on the problem of indigenous peoples' rights in a state-centered understanding of international law and **Derya Çakım** writes on the use of metaphors in international law.

The issue closes with **Niels Hoek's** enthusiastic review of Geoffrey Garver's new book, *Ecological Law and the Planetary Crisis: A Legal Guide for Harmony on Earth*.

