

IN/EX-CLUSIVENESS OF INTERNATIONAL LAW

17th Annual Conference of the European Society of International Law

1-3 September 2022

Preceded by Interest Group workshops on 31 August-1 Sept. 2022

Utrecht University, Netherlands

CALL FOR PAPERS

The 17th Annual Conference of the European Society of International Law will convene in Utrecht in the Netherlands from Thursday 1 September to Saturday 3 September 2022. The main conference will be preceded by various workshops organised by the Society's Interest Groups on 31 August 2022 and 1 September.

THE GENERAL THEME OF THE CONFERENCE

Critical reflection on the in/ex-clusiveness of international law serves as an opportunity to analyse its historical, political, and economic baggage. In the 19th century context, the role of international law was intertwined with the assumption that certain territories were not entitled to take part in the core cycle of international lawmaking. While the 19th century discourse cannot be treated in a homogeneous way, different and unequal relationships were built according, at least in part, to the perceived status of the civilisation of certain states and territories. The doctrines of territorial title, legal personality, and extraterritorial jurisdiction, among others, were mobilised to sustain the classification of states and the subjugation of territories and peoples, in an age where positivistic approaches were often celebrated in legal science.

Modern international law and lawmakers have worked towards greater inclusiveness, or at least so it seems. The independence of former colonies may have been one of the most significant achievements involving people under colonial rule, whose struggle, among others, eventually led to some changes to international law and institutions. While decolonisation and related legal and institutional changes may provide one of the symbolic instances, there are many other dimensions in which international politics and law have embraced actors, processes, and ideas that were previously excluded or marginalised.

While international law's problematic exclusiveness has been partly remedied, it is often acknowledged that the issue remains unresolved, reproduced, or undetected on many fronts. While the UN may have been celebrating its contribution to decolonisation and related legal and institutional changes, significant economic disparities have not been resolved by the acquisition of the formal status as sovereign states for newly independent states. The new participants also found themselves bound by the existing architecture of international law, institutions, and political and economic conditions. Furthermore, international law remains uncertain with regard to those territories whose formal statehood is disputed.

Various exclusionary factors may persist in the specific fields of international law, in such a manner that affected entities, groups, and individuals find them normatively problematic. Consider, for instance, representation and participation in the development of law, actors to whom accountability is rendered, the identification of right-holders and protected persons, economic ideologies that underpin law and institutions, and the legal construction of security threats. While global values, common interests, and solidarity are constantly referred to in the practices of international law and institutions, the flexibility and uncertainty of such values may have rather preserved and strengthened the exclusiveness of international law.

The 17th annual conference of the ESIL will take a critical look at the inclusiveness and exclusiveness of international law. Consideration will also be given to the related role of international law scholarship. The conference will address the theme in various theories, domains, methodologies, and the teaching of international law. The conference serves as an opportunity for participants to revisit some of the underlying assumptions about international law, practices, and theories.

The conference will consist of six (6) fora panels which will explore in/exclusiveness in the construction of the history of international law and international lawmaking, discuss related research methods, as well as of the in/ex-clusiveness in university curricula and legal careers. Twelve (12) agorae will be organised around more specific themes as described below. Agora speakers are selected on the basis of paper proposals submitted in response to this call for papers.

THE THEMES OF THE AGORAE

The ESIL 2022 will convene 12 agorae, 10 based on the following 10 themes, 2 based on Agora proposals submitted by ESIL Interest Groups. The ESIL invites innovative paper proposals concerning one of the Agora themes:

1. In/ex-clusiveness in Personality and Actors in International Law

NGOs, non-state armed groups, multinational corporations, professional associations, certification and insurance companies, etc. have increasingly gained agency in international decision-making processes and in the enforcement of international law, at the international and domestic levels. Notwithstanding this, only a limited group of actors, mainly states and international organisations, are recognised as having international legal personality. This agora welcomes papers addressing the content of international legal personality and offering alternative approaches to personality and subjectivity.

2. In/ex-clusiveness in the Interpretation of International Law

The dichotomy between a formalistic *versus* a non-formalistic approach to the application and interpretation of international law still permeates international practice and scholarship. This agora welcomes papers which engage with this dichotomy and/or consider possible ‘third’ approaches to interpretation. Submissions can cover issues relating to the notions of ‘relevant practice’, ‘subsequent treaties’ and ‘relevant context’.

3. In/ex-clusiveness in International Adjudication

Legal standing in front of international courts and tribunals is still limited for non-state actors. In light of the wider variety of actors participating in international relations, those limitations might result in a (total or partial) denial of justice for the actors involved. Moreover, international benches tend to lack diversity, in terms of gender, race, national and cultural backgrounds, and class. More diverse benches might adopt different decisions, protect different interests and attract different participants in the available procedures. International adjudication can also emphasise the inequalities between states and, thus, impact actual participation in judicial proceedings. The agora welcomes papers which address the many facets of international adjudication, its inclusiveness or lack thereof.

4. In/ex-clusiveness in Right-Holders and Protected Persons

Who has rights pursuant to international law? Should elements of nature or animal species also have rights? Is a right-based approach to protect individuals or elements of nature always the answer? This agora strives to answer these questions by discussing who/what international law protects and through which legal framing of the object/subject of the protection.

5. In/ex-clusiveness in Economic Ideologies and Perspectives

International law is not economically neutral. Capitalist and neoliberal ideologies have greatly influenced the development of international law, specifically since the end of the World War II. As any ideology, they have buttressed certain interests and protected certain actors. In some historical moments, other ideologies (e.g., the New International Economic Order) have managed to impact international law. This agora would like to address, *inter alia*, the following questions: who/what has been in/excluded from the developments of international law buttressed by the different economic ideologies and perspectives? Which economic ideologies are currently influencing the development of international law, and how?

6. In/ex-clusiveness in the Legal Construction of Sustainable Environment

Sustainable development presupposed interlinkages between the protection of the environment, the protection of human rights and international economic law. International environmental law has thus been framed as tightly connected to economic development. It remains unclear, however, what a sustainable environment is from a legal perspective and what the legal nature of sustainable development is. This agora welcomes papers addressing the development and content of this term, discussing the parameters to assess the ‘sustainability’ of the environment and considering whether a sustainable environment is a healthy (or ecologically sound) environment.

7. In/ex-clusiveness in the Legal Construction of Violence and Security

International law has dealt with the security of states and the violence perpetrated by states since its very beginning. Many scholars and practitioners have highlighted the weaknesses and limitations of the international legal framework in tackling other forms of violence perpetrated by and threats to the security of non-state actors. This agora welcomes papers addressing those weaknesses and limitations, with a particular focus on how international law is dealing with violence targeting social groups and minorities, with violence perpetrated by non-state actors and with guaranteeing the security of non-state actors, social groups and minorities.

8. In/ex-clusiveness of the Legal Construction of the Commons (outer space; deep seabed area; climate/atmosphere; etc.)

Why are the commons common? Who participates in the decision-making processes? Who benefits from their management and exploitation? Who should address and remedy problems? This agora welcomes papers which offer answers to these and related questions on how international law has construed the concept of, and manages, the ‘commons.’

9. In/ex-clusiveness in the Legal Construction of Borders (both terrestrial and maritime)

The concept of borders has multiple dimensions (historical, political, and economical). Borders in international law are stable and objective: delimitation treaties are binding *erga omnes* and they are not affected by state succession. Their stability and thus rigidity have however jeopardized the respect of fundamental principles, such as the principle of self-determination of people, and are now debated in relation to territorial changes and forced migrations caused by climate change. This agora welcomes papers engaging with the concepts of borders, boundaries and frontiers in international law, from a theoretical and practical perspective. This may include issues concerning the in/exclusiveness of delimitation processes, the legal weaknesses and gaps of border management, or the challenges linked to border modifications.

10. In/ex-clusiveness of the Legal Construction of Justice

Which type(s) of justice is international law enabling/pursuing? Who are the beneficiaries of this justice? Which are the institutions involved in legally guaranteeing justice at the international level? Who controls the guarantor? This agora calls for papers which offer a reflection on the concept of justice in international law and how it translates into legal norms and institutions.

INSTRUCTIONS FOR SUBMISSION

Selection criteria

The abstracts will be assessed by the programme committee, which consists of the agora chair, and representatives from the ESIL Board and the host institution, on the basis of:

- Originality and innovative nature of the work

- Relevance to one of the agora themes
- Diversity criteria, in accordance with the ESIL [Statement of Principles on Diversity, Equality and Inclusion](#)

Only one abstract per author will be considered. Panel proposals are not eligible and will not be considered. Joint submissions are possible, but a reduced registration fee is applicable only to one of the selected speakers.

Information to be included

Paper proposals must be submitted via the online submission page of the conference website. The deadline for the submission of abstracts is 31 January 2022. The following information must be included:

- An abstract, not exceeding 500 words
- A short biography (100 words) should be included in the abstract itself
- The agora for which the paper should be considered (one agora only)
- The author's name and affiliation
- The author's CV, including a list of relevant publications (max. 800 words)
- The author's contact details, including email address and phone number
- Whether the author is a current ESIL member
- Whether the abstract should be considered for the ESIL Young Scholar Prize (see below) and, if so, the relevant information (about eligibility and ESIL membership)

Submission of Agora panel proposals by ESIL Interest Groups

Following the ESIL's previous annual conferences, two agorae will be reserved for ESIL Interest Groups, which are invited to submit panel proposals.

Agora proposals can only be submitted by ESIL Interest Group conveners and must be submitted via the conference website. The proposal must include the following information:

- The name of the ESIL Interest Group submitting the proposal
- The contact details of the person(s) submitting the proposal, including email address and phone number
- The title of the proposed panel, and a description of the overall theme of the panel and the insights expected from the discussion
- The format of the agora: panel, roundtable, or other format (please note: all agorae are scheduled for 1.5 hours and there can be a maximum of 4 participants – e.g. one chair and 3 speakers)
- A full set of abstracts of the individual papers that are to be part of the panel, with the information required for paper proposals (see above)

Full papers

Selected speakers should submit a first draft of their paper (min. 3000 words) prior to the annual conference. The paper will be shared with other agora speakers with a view to creating interactions during the conference. The quality of the drafts will be screened by the programme committee, which may request amendments.

Timeline

- The deadline for submission of abstracts is **31 January 2022**
- Successful applicants will be informed no later than **31 March 2022**
- The deadline for submission of full papers is **1 July 2022**
- The conference runs from **1 to 3 September 2022**
- The deadline for (optional) submission of final papers (to be included in the ESIL Paper Series and/ or a future conference publication) is **1 November 2022**

Finances

All selected agora speakers must register for the conference and, if ESIL members, will be eligible for a reduced conference registration fee. ESIL does not cover expenses for travel and accommodation. ESIL awards travel grants and carers' grants to ESIL members to encourage and facilitate attendance at ESIL events. Application details can be found on the ESIL website.

Publication

After the conference, ESIL provides the opportunity to publish papers in the ESIL Paper Series and also plans to publish selected high-quality papers in a volume of the ESIL Book Series (published by OUP). Further details about how to submit papers for publication will be provided to all speakers immediately after the conference.

ESIL Young Scholar Prize

ESIL will award the Young Scholar Prize (YSP) again in Utrecht. Further details about the Prize can be found on the ESIL website. The YSP will be awarded for the best paper submitted to the conference or to a pre-conference Interest Group workshop by a scholar at an early stage in her or his career.

Early-career scholars are (i) candidates for a postgraduate degree in law; (ii) PhD candidates or those who have had their oral defence no longer than 3 years prior to the submission of an abstract; or (iii) those who are within the first 5 years of their career following the award of their last academic degree and who can provide evidence of their contribution to legal scholarship through academic publication. Candidates for the Prize have to be ESIL members at the time of submitting their abstract. Co-authored articles will only be considered for the prize if all authors fulfil the eligibility criteria.

To be considered, please provide the following information when submitting the abstract:

- An expression of interest in competing for the ESIL YSP
- Date of enrolment in PhD programme / date of PhD defence or date of award of the last academic degree (to indicate how the eligibility criteria are met)
- Date of joining ESIL

Upon acceptance of the abstract for presentation at the conference or in a preconference IG workshop and notification that they are eligible for the YSP, authors must submit a paper of between 8,000 and 12,000 words (including footnotes) to the ESIL Secretariat (esil.secretariat@eui.eu) by 1 July 2022 for consideration by the YSP jury.

CONTACT

For further information, consult our website <https://esilutrecht2022.sites.uu.nl> or please write to esil2022@uu.nl.