

Editorial #6: On Silence

Philipp Eschenhagen

2021-06-01T08:00:23

As so frequently in the past, the world had its eyes turned towards the Middle East where the worst fighting in years erupted between Israelis and Palestinians in May 2021. *Völkerrechtsblog* has not yet commented on this renewed violent flare-up that [displaced](#) 72,000 Palestinians and [took](#) at least 248 Palestinian lives, including 66 children, as well as 12 Israeli lives, including one child.

In light of such humanitarian tragedy, a weariness seems to have spread amongst international lawyers, as they struggle to make sense of a conflict that appears to transgress international law's categorizations: Legal/illegal, ex post/ex ante, rightful/wrongful, jus in bello/jus ad bellum etc. At times, these binaries seem almost vulgar considering the individual human tragedies that rest beneath the surface of international affairs (see [Mégret's](#) playful treatment of this issue). Must we, as international lawyers, always speak up so ever wittingly and make use of our adorned vocabulary, concepts and orderly demeanor? Or, are there not times to retreat, stay silent and be appreciative of our limitations? Silence does not equal voidness or neutrality, as it may itself emanate a strong normative assessment in cases that demand action. To stay silent may also, however, express one's awareness of complexity and consideration in the face of human suffering that often seems to transcend the law.

Once again, we have had a busy month at *Völkerrechtsblog*, with various contributions on the recent German Constitutional Court's climate judgment ([here](#), [here](#), and [here](#)) and global vaccine distribution ([here](#) and [here](#)). Furthermore, I warmly encourage readers to consider our most recent symposium "[Dialing Into Jessup](#)" that takes stock of this year's Jessup Moot Court and the extraordinary circumstances of its virtual format. International lawyers of all shades (counselors, scholars, judges, diplomats, students) have provided very insightful comments. These highlight the improved global access to a virtual format, the challenges it posed for the drafting of procedural rules, as well as the uniqueness and particularity of lived experience that gets lost in virtuality.

Personally, I remember my own Jessup experience as well as my judging experience to have been wonderful exercises in writing and speaking. Between the spoken words, however, there always linger the unspoken words, those that teams have chosen to dismiss from their pleadings. From that perspective, Jessup becomes an exercise in choosing one's words carefully, distinguishing between speech and silence, what to say and what not to say, hence, which words to steer clear of and which words to make use of.

This particular ability, while not often stressed in advertisement for the Competition, might in fact turn out to be of particular significance for future international lawyers as they face tragedy that may not be adequately grasped by legal words.

