

INTERNATIONAL LAW PUBLISHING TRENDS:  
WHAT JOURNALS PRINT

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I. INTRODUCTION

International law stands apart from most areas of law in the proliferation of specialty journals, particularly in U.S. law schools. Little is known, however, about what those journals publish and how their content compares to the content of other law journals. Two works in this symposium offer descriptive overviews of content published by journals related to international law.

This Essay analyzes the content published in four of the top-rated international law journals over the last twenty years along multiple dimensions. Using an original data set compiled through three library science databases,<sup>1</sup> we hand-coded more than 1,500 articles from four leading international law journals: the *American Journal of International Law* (*AJIL*), the *European Journal of International Law* (*EJIL*), the *Harvard International Law Journal* (*HILJ*), and the *Yale Journal of International Law* (*YJIL*).

Analyzing this data, we confirm some commonly held perceptions and expectations of how these journals operate and also arrive at some noteworthy findings. First, these journals largely publish articles on

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1. We relied on HeinOnline’s database of law reviews, as well as on the Index on Legal Periodicals, and Web of Science Citation Index, all of which are also available via subscription.

many diverse international law topics each year and across the years, and that is especially true for the two student-run journals (*HILJ* and *YJIL*). Second, over the last fifteen years, two topics appear relatively more frequently among those articles published by peer-reviewed journals. For *AJIL*, the most prevalent topic is armed conflict, while *EJIL* publishes an exceptional number of articles on international law theory. Third, only *AJIL* stands out in publishing a notable number of articles related to a particular region: North America. Finally, we compare these results to the articles published by the *Yale Law Journal* (*YLJ*) and the *Harvard Law Review* (*HLR*) in the same time period and find that those journals publish remarkably few international law manuscripts as a percentage of their total article counts.

The purpose of this Essay is largely descriptive. It is the first study to track and identify publishing practices by top international law journals. While some journals publish statistics about their submissions and readership,<sup>2</sup> it is less common for them to analyze publicly their outputs. Within the subject of topical analysis, this Essay develops preliminary explanations for the results emerging from the data. Finally, although this study concentrates on four international law journals, its goal is to illuminate certain trends that may be useful for authors, publishers, consumers of this literature, and ultimately for international law-makers. It is the foundational data for a series of projects in the Study and Analysis of International Law Scholarship (SAILS) Consortium that will then take the hand-coded results and apply them to international law articles from all available journals through machine learning. In total, these initial results provide early insights into the world of international law publishing—specifically, the volume of articles published on certain topic areas.

The Essay proceeds as follows. In Part II, we discuss the history and significance of the four journals we have selected to study in this preliminary examination. Part III presents our methodology. In Part IV, we elaborate on the results of our analysis. We compare topic trends over time within and among the four journals, regional concentrations, and citation information for these articles. Part V then provides some reflections on the data and results and sets out a future research agenda, asking questions about what kind of international law publishing is ideal, to what end, and in what sorts of publications.

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2. See, e.g., Editorial, *Editorial: EJIL at 30; The EU—A Community of Fate, at Last; Vital Statistics; In this Issue; The Birth of EJIL*, 30 *EUR. J. INT'L L.* 1, 3–5 (2019) (recounting statistics about *EJIL*).

## II. THE FOUR JOURNALS: HISTORY AND SIGNIFICANCE

While there are many top international law journals along different measures, we chose these four as a sample group for three primary reasons: history and story of origin; rank; and ownership and publication approach.

First, three of the journals are among the oldest international law journals in the United States. *AJIL* is considered the oldest continuously published international law journal in the United States. Founded in 1907, *AJIL* began the same year as the American Society of International Law (ASIL). As detailed by Harlan Cohen in this collection,<sup>3</sup> this trend—of journals accompanying societies—would reemerge in the history of international law journals in universities a half-century later.

Beginning around 1960, an explosion in international law journals in the United States created an abundance of publication opportunities and precipitated the exponential growth in the number of international law articles published by scholars from across the globe.<sup>4</sup> The Harvard International Law Club started producing its *Bulletin* in 1959.<sup>5</sup> The *Bulletin* was renamed in 1962 as the Harvard International Law Club Journal and subsequently *HILJ* in 1967.<sup>6</sup> The original goal of the Harvard publication was to publish student seminar papers.<sup>7</sup> Several of the graduate students who would be published in early volumes went on to become well-known international law jurists.<sup>8</sup>

The *Yale Journal of World Public Order*, inaugurated in 1974, was dedicated to publishing work reflecting a new school of international legal thought founded at Yale.<sup>9</sup> In its early years, this journal concentrated on the work of the New Haven School or policy-oriented jurisprudence.<sup>10</sup> In later years, it would eventually become *YJIL*.

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3. Harlan Grant Cohen, *A Short History of the Early History of American Student-Edited International Law Journals*, 64 VA. J. INT'L L. 357 (2024).

4. *Id.*, at 358.

5. *Id.*

6. Ignacio de la Rasilla, *A Very Short History of International Law Journals (1869–2018)*, 29 EUR. J. INT'L L. 137, 158 n. 163 (2018).

7. Cohen, *supra* note 3, at 359.

8. Eli Lauterpacht published in volume 1, Arthur von Mehren in volume 2, and Georges Abi-Saab in volume 3, to name a few.

9. De la Rasilla, *supra* note 6, at 158 (citing W. Michael Reisman, *The Vision and Mission of The Yale Journal of International Law*, 25 YALE J. INT'L L. 263, 263 (2000)).

10. See W. Michael Reisman, *The Vision and Mission of The Yale Journal of International Law*, 25 YALE J. INT'L L. 263 (2000).

The youngest of the four journals studied here, *EJIL*, came on the scene in 1990. According to its website, “*EJIL* was established in 1990 by a small group of distinguished scholars based at the European University Institute in Florence.”<sup>11</sup> The *EJIL* leaders expressly note their vision for the journal to have a “European orientation.”<sup>12</sup> *EJIL* was originally bilingual but is now published only in English. For a period, it also accepted submissions in French, Spanish, Italian, and German, and *EJIL* indicated it would translate into English those articles written in other languages that were accepted for publication where resources permitted.<sup>13</sup>

Second, we selected these journals also because they are four of the top journals in the field based on reputation and based on two journal rankings systems: Google Scholar and the Washington and Lee Law Journal Rankings.<sup>14</sup> In 2023, the former ranks *AJIL* and *EJIL* as the top two international law journals in the world,<sup>15</sup> while the latter ranks *AJIL* and *HILJ* as the top two international law journals among the 163 that it ranks.<sup>16</sup> *HILJ* holds itself out as “the oldest and most-cited student-edited journal of international law” and as “one of the ten most influential law journals in the world, based on research influence and impact factors.”<sup>17</sup> *AJIL* touts that “[t]he nonprofit, scholarly periodical resource JSTOR considers *AJIL* to be ‘the premier English-language scholarly journal in its field.’”<sup>18</sup>

Finally, we also selected these four journals for their diversity in ownership. *AJIL* is managed and owned by ASIL and published by Cambridge University Press.<sup>19</sup> *EJIL* has some administrative support from and “a home” in the European University Institute in Florence.<sup>20</sup>

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11. *About the EJIL*, EUR. J. INT’L. L., <https://web.archive.org/web/20230724223049/http://www.ejil.org/about/> (last visited July 24, 2023).

12. *Id.*

13. *Id.*

14. See *International Law - Google Scholar Metrics*, GOOGLE SCHOLAR, [https://scholar.google.com/citations?view\\_op=top\\_venues&hl=en&vq=soc\\_internationallaw](https://scholar.google.com/citations?view_op=top_venues&hl=en&vq=soc_internationallaw) (last visited Nov. 17, 2023) [hereinafter *Google Scholar Rankings*]; *W&L Law Journal Rankings*, WASH. & LEE SCH. OF L., <https://managementtools4.wlu.edu/LawJournals/> (last visited Nov. 17, 2023) [hereinafter *W&L Rankings*].

15. *Google Scholar Rankings*, *supra* note 14. Note that Google Scholar ranks only peer-reviewed journals.

16. *W&L Rankings*, *supra* note 14.

17. *About*, HARV. INT’L L. J., <https://journals.law.harvard.edu/ilj/about/> (last visited Nov. 17, 2023).

18. *American Journal of International Law*, AM. SOC’Y OF INT’L L., <https://www.asil.org/resources/american-journal-international-law> (last visited Nov. 17, 2023).

19. See *id.*

20. Editorial, *EJIL at Twenty: A Family Affair*, 20 EUR. J. INT’L L. 1, 1 (2009).

*EJIL* is published by Oxford University Press.<sup>21</sup> *HILJ* is published “by Harvard Law School students,” according to the front matter of its volumes, under the auspices of Harvard Law School but without administrative assistance from the University or its Press.<sup>22</sup> *YJIL* is its own non-profit organization, registered with the U.S. Internal Revenue Service,<sup>23</sup> and known as YJIL, Inc.<sup>24</sup> In the case of the *HILJ* and *YJIL*, students carry out all the editing and then send the completed articles to a typesetter for printing.<sup>25</sup>

### III. METHODOLOGY

In total, we examined 1,504 articles published in these four journals from 2005 to 2020. We limited our collection to just those articles that were “full-length,” the meaning of which varies from journal to journal.<sup>26</sup> We left out student notes or supplemental editorial material where that material could be identified.<sup>27</sup>

A team of five law students coded each article on the basis of its introduction or a broader skim of the full article as necessary.<sup>28</sup> The students were asked to code the article according to multiple criteria: author name, year of publication, issue number, Hein Scholar Rank of the author, the primary topic of the article, the secondary topic of the article (if any), the regional focus of the article (if any), and some biographical data about the author. This Essay only addresses the topic categories and regional focus data.

We chose to hand code the data because of the errors we found in the machine coding done by the databases themselves, as well as by library consortia. For example, HeinOnline codes only sixty-six articles

21. *Editorial*, *supra* note 2, at 2 (stating that the publishing relationship is renewed every five years).

22. *Front Matter* of Volume 59, 59 HARV. J. INT’L L. (2018).

23. Tax Exempt Organization Search for Yale Journal of International Law Inc., IRS, <https://apps.irs.gov/app/eos/> (search by organization name and type “Yale Journal of International Law Inc.”) (last visited Nov. 12, 2023). *See also* Email from YJIL Editor-in-Chief Ali Hakim to Prof. Kathleen Claussen, Feb. 13, 2024 (confirming that YJIL, Inc. is a registered business).

24. Table of Contents, 41 YALE J. INT’L L. (2016).

25. YJIL, for example, is printed by Joe Christensen, Inc., a family-owned commercial printer in Lincoln, Nebraska. *Id.*

26. *See, e.g., Submitting Manuscripts*, EUR. J. INT’L L., <http://www.ejil.org/about/manuscripts.php> (noting that manuscripts should be between 10,000 and 15,000 words in length) (last visited Nov. 12, 2023); *Article Submissions*, YALE J. INT’L L., <https://www.yjil.yale.edu/submissions/article-submissions/> (last visited Nov. 12, 2023).

27. Exceptionally, a small handful of editorial introductions to symposia issues were included.

28. We thank University of Miami Law School students Eduardo Bombarda, Goel Damkani, Destini Fernandez, Tarmo Joeveer, and Kate Ruston for their research assistance during the 2021–2022 school year.

published by *YJIL* during this period as “international law,”<sup>29</sup> whereas we reviewed all 194 articles published by *YJIL*. This problem extends across all four journals and is not limited to HeinOnline. In later work, we intend to apply our coding mechanism to the thousands of additional articles published in international law journals and in general law reviews for a comprehensive analysis.

With respect to topic, each article was assigned a primary topic category, and where warranted, a secondary topic category.<sup>30</sup> We provided the students with a glossary for coding up to two of thirty-two categories. The table below lays out the numbers and topics:

1	armed conflict
2	biographical
3	comparative law
4	cultural heritage
5	customary international law
6	cyber affairs and technology
7	environment
8	finance
9	health
10	human rights
11	Indigenous peoples and self-determination
12	intellectual property
13	intergovernmental organizations

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29. In a data set purchased from HeinOnline by Oona Hathaway and John Bowers and described in their important essay in this symposium, Hein provided them with eighty-five *YJIL* articles that it had tagged as “international law” in the same period. We cannot be certain as to the source of the discrepancy in the Hein results.

30. In some instances, the coders requested a third topic category, but we did not include those for this first round of coding.

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14	international arbitration
15	international business
16	international courts
17	international criminal law
18	international humanitarian law
19	investment
20	maritime and law of the sea
21	migration and refugees
22	non-proliferation and arms control
23	other
24	outer space
25	private international law
26	tax
27	theory
28	trade
29	transitional justice
30	transnational litigation
31	treaty practice
32	U.S. foreign relations

We then reviewed some of the entries where the coder expressed some doubt about the categorization.<sup>31</sup>

In a later stage of the project, we grouped each of the thirty-two topic areas into a topic family for ease of understanding. We created ten family thematic groups: war, rights and criminal law, theory, environment and health, economic, domestic, organizations and courts, innovation, treaties, and other.

Grouping the thirty-two categories into families highlights another challenge to this study: line drawing. We developed the thirty-two categories on the basis of a combination of factors, including prominent areas of coursework, specializations traditionally noted by law faculty in the United States, and sections of professional societies. Those lines are just as imperfect as the coders' efforts to fit small, specialized studies into these artificial boxes. The grouping into family themes also poses limitations—first, because of its higher level of abstraction, and second, as a consequence of the loosely organized groups that we developed. For example, where does one put the topic of outer space? Should it be grouped with any other category, and if so, how would such a pairing be labeled? These questions linger throughout this study, just as they do with other empirical projects. One could deconstruct and reconstruct the categories in multiple different ways. But the ten family groups make it easier to see some of the trends over time and also help to control for those topics that only recently became more salient as subfields within international law.

#### IV. RESULTS

As a starting point for comparing the data among the journals, we note that these four journals vary in the number of articles they publish each year. That differentiation is attributable in part to the history and style of the journal, as well as to the editorial processes they undertake, the staff available, and the arrangements with individual printers or publishers as to the number of print pages. Those numbers have also fluctuated with budgets and transitions to electronic formatting in place of print subscriptions. *EJIL* publishes far more articles than any of the other journals in this study, and those articles comprise more than half of our set: 828 of our 1,504 articles were published in *EJIL*.

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31. The "other" category, discussed further below, contained a hodgepodge of topics but most frequently represented was international law history.



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Across the fifteen years studied, the total number of articles published by *AJIL* each year spanned from as few as ten (in 2010) to as many as thirty-two (in 2005). The total number of articles published by *EJIL* ranged from thirty-five in 2006 to sixty-five in 2020. In the case of *HILJ*, the lowest number was nine, and the highest was twenty in 2007. For *YJIL*, the total number of articles ranged from seven to twenty-four. Figure One shows the change over time in the number of articles published by each journal.<sup>32</sup> In future research, it will be interesting to compare *AJIL* and *EJIL* to other peer-reviewed journals in the field. To take one example, the *Journal of International Economic Law*, a peer-reviewed journal published by Oxford University Press, in 2020 published 43 articles. We expect that *AJIL* is exceptional among peer-reviewed journals in its numerical similarity to the student-edited journals.

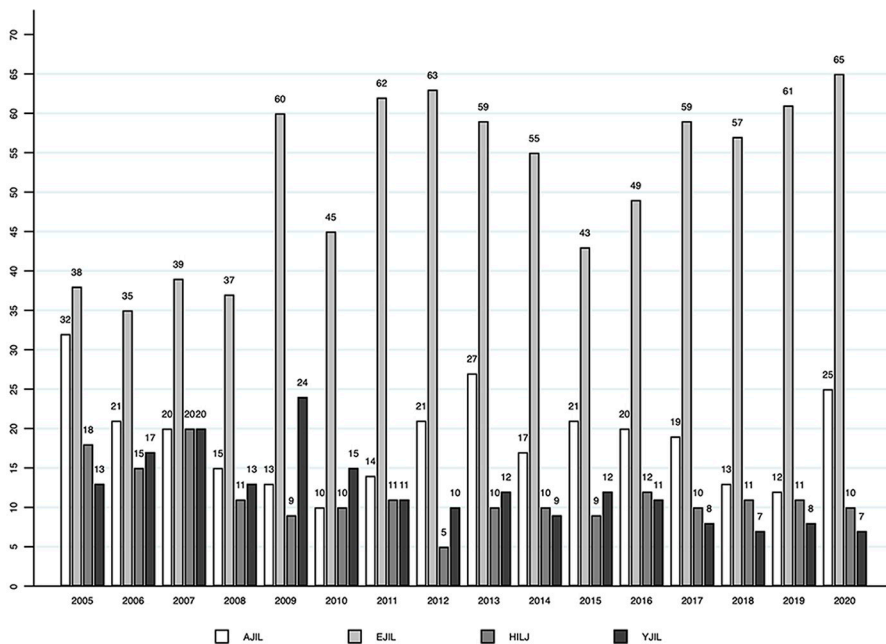


FIGURE ONE: Total Articles Per Year for All Four Journals (2005-2020)

32. This includes symposia but not online articles.

In the results that follow, we often refer to topics as a percentage of coverage, given the imbalance created by *EJIL*. Note that because the journals publish very few articles in some years, the yearly data are small.

### A. What Topics Get Published?

In the last fifteen years, these four leading journals collectively have published articles across each of the thirty-two categories we selected, and surprisingly, they do so with remarkable consistency. While a few categories stand out, there is not any statistically significant increase in any one category from 2005 to 2020.

#### 1. Overall Trends

Figure Two shows the total number of articles that fall within each of the categories across our hand-coded data set. Strikingly, articles about international law theory comprise the largest set from the thirty-two original topics. Human rights articles are the second most published, and when grouped with international criminal law, this group takes up more space than the theory articles. Articles concerning armed conflict and international humanitarian law together also receive considerable print. Finally, as a group, articles about international organizations and

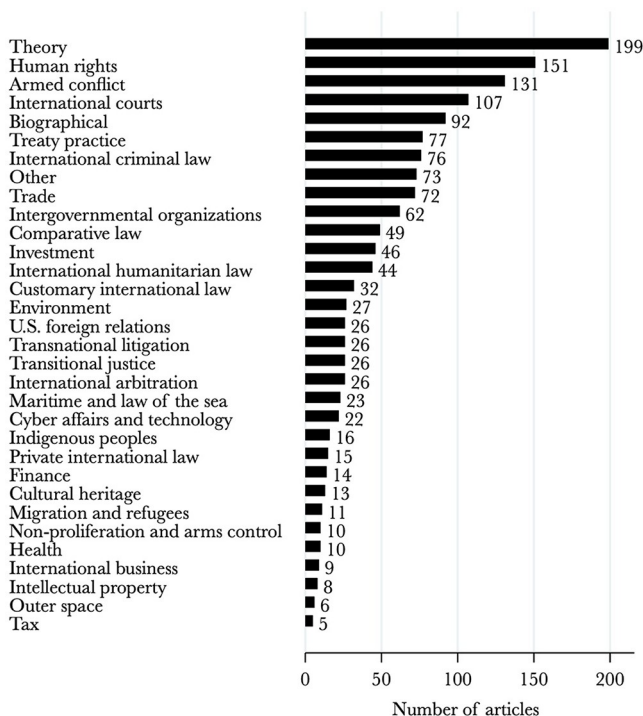


FIGURE TWO: Total Number of Articles Published from 2005-2020 by Topic

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courts comprise the fourth most popular area. International economic law stands out as under-published by these four journals compared to the other topics.

The numbers of articles published about these topics do not vary significantly over the fifteen years that we studied. Articles about international law theory comprised fourteen percent of manuscripts published by these journals from 2005 to 2008, fourteen percent of manuscripts published from 2010 to 2013, and fifteen percent of manuscripts published from 2017 to 2020. The same is true of international organizations and courts, despite the robust activities of several international courts during earlier years and less activity from them in the more recent years. There is a slight decline in the number of articles about human rights and criminal law over that period.

There is some increase, however, among the lesser published categories. For example, there is a notable increase in the number of articles

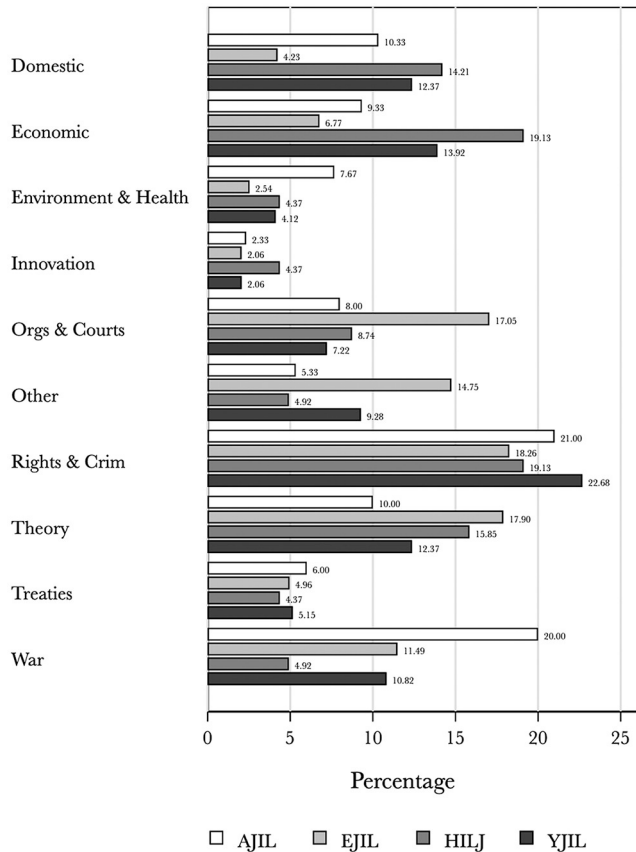


FIGURE THREE: Percentage of Articles Published by Each Journal in Each Topical Group from 2005-2020

about the environment and health from the 2005–2008 to the 2017–2020 period.

Figure Three shows how the four journals compare when it comes to the broader family groups as a percentage of the total number of articles published by the journal. None of the journals looks particularly steady across the groups. Each tends to publish more of a particular group or groups than others, but the total numbers are still quite low.

## 2. Individual Journal Trends

Each journal has a different topical profile. Table One shows the total number of each primary topic published by each journal from 2005 to 2020, and Table Two provides the same data as a matter of percentage. Focusing on *AJIL*, articles on the topic of “armed conflict” dominate its collection, representing forty-eight articles out of the 300—i.e., sixteen percent. A symposium on the topic contributed to its outsized presence. Second is human rights with thirty-five articles, or twelve percent of the total collection. Other frequent topics include international criminal law (twenty-one articles; seven percent); theory (seventeen articles; six percent); and treaty practice (eighteen articles; six percent). *AJIL* published very rarely on certain other topics. Topics for which only one article was published are Indigenous peoples, intellectual property, and tax.<sup>33</sup>

TABLE ONE: TOTAL NUMBER OF ARTICLES PUBLISHED BY TOPIC AND BY JOURNAL (2005-2020)

Topic \ Journal	AJIL	EJIL	HILJ	YJIL
Armed conflict	48	63	8	12
Biographical	10	74	5	3
Comparative law	7	23	10	9
Cultural heritage	0	10	0	3

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33. As noted above, some articles were close calls and presented a complex picture given their combined areas of emphasis or their secondary and tertiary topics. As a result, certain categories may be underrepresented in the Tables. For example, although the tables indicate *AJIL* published no articles about refugees and migration, there was in fact one that dealt with the topic as a (close) secondary matter: a Current Development by Jane McAdam in 2020 on the UN Human Rights Committee’s treatment of people displaced by climate change.

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TABLE ONE: CONTINUED				
Topic \ Journal	AJIL	EJIL	HILJ	YJIL
Customary international law	13	16	2	1
Cyber affairs and technology	4	12	4	2
Environment	7	11	5	4
Finance	5	1	6	2
Health	6	1	2	1
Human rights	35	84	16	16
Indigenous peoples	1	11	1	3
Intellectual property	1	2	3	2
Intergovernmental organizations	12	46	3	1
International arbitration	2	14	6	4
International business	3	2	4	0
International courts	10	81	7	9
International criminal law	21	34	12	9
International humanitarian law	9	28	1	6
Investment	9	19	12	6
Maritime and law of the sea	10	9	1	3
Migration and refugees	0	6	2	3
Non-proliferation and arms control	3	4	0	3
Other	6	48	4	15
Outer space	2	3	1	0
Private international law	4	4	4	3
Tax	1	1	0	3

TABLE ONE: CONTINUED				
Topic \ Journal	AJIL	EJIL	HILJ	YJIL
Theory	17	132	27	23
Trade	10	33	13	16
Transitional justice	6	6	4	10
Transnational litigation	9	7	7	3
Treaty practice	18	41	8	10
U.S. foreign relations	11	1	5	9
Total	300	827	183	194

Carrying out the same analysis for *EJIL* conveys a very different distribution. Again, the total numbers for *EJIL* are much higher because *EJIL* publishes so many more articles. In the case of *EJIL*, articles on the topic of “theory” dominate the collection with 132 articles out of 827 (about sixteen percent). To give a sense of what we counted as “theory,” we included articles like: Anne Peters, *Humanity as the Alpha and Omega of Sovereignty* (2009), Gregory Shaffer, *International Law and Global Public Goods in a Legal Pluralist World* (2012), and Laurence Boisson de Chazournes, *Functionalism! Functionalism! Do I Look Like Functionalism?* (2015). Theory articles as coded by our team are wide-ranging, and we debated whether to take some out for separate categories, such as on sovereignty or on general principles of international law. Most of the “theory” articles also have a secondary topic of importance and could have been categorized accordingly. Thus, one question for further exploration is whether “theory” is rightly a topical category at all or perhaps better thought of as a methodology. As discussed further below, we agree that theory presents a special case, but we have maintained the code for this presentation of the data.

Next among *EJIL* stand-out categories are human rights (eighty-four articles; ten percent); international courts (eighty-one articles; also about ten percent); biographical (seventy-four articles; nine percent); and armed conflict (sixty-three articles; eight percent). Those that were among the fewest articles featured include: finance, health, tax, and U.S. foreign relations. All thirty-two categories were represented at least one time in *EJIL*. Also noteworthy about *EJIL* is just how many articles

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TABLE TWO: TOTAL NUMBER OF ARTICLES PUBLISHED BY TOPIC AND BY JOURNAL (2005-2020) - PERCENTAGE

Topic \ Journal	AJIL	EJIL	HILJ	YJIL
Armed conflict	16%	8%	4%	6%
Biographical	3%	9%	3%	2%
Comparative law	2%	3%	5%	5%
Cultural heritage	0%	1%	0%	2%
Customary international law	4%	2%	1%	1%
Cyber affairs and technology	1%	1%	2%	1%
Environment	2%	1%	3%	2%
Finance	2%	0%	3%	1%
Health	2%	0%	1%	1%
Human rights	12%	10%	9%	8%
Indigenous peoples	0%	1%	1%	2%
Intellectual property	0%	0%	2%	1%
Intergovernmental organizations	4%	6%	2%	1%
International arbitration	1%	2%	3%	2%
International business	1%	0%	2%	0%
International courts	3%	10%	4%	5%
International criminal law	7%	4%	7%	5%
International humanitarian law	3%	3%	1%	3%
Investment	3%	2%	7%	3%
Maritime and law of the sea	3%	1%	1%	2%
Migration and refugees	0%	1%	1%	2%

TABLE TWO: CONTINUED				
Topic \ Journal	AJIL	EJIL	HILJ	YJIL
Non-proliferation and arms control	1%	0%	0%	2%
Other	2%	6%	2%	8%
Outer space	1%	0%	1%	0%
Private international law	1%	0%	2%	2%
Tax	0%	0%	0%	2%
Theory	6%	16%	15%	12%
Trade	3%	4%	7%	8%
Transitional justice	2%	1%	2%	5%
Transnational litigation	3%	1%	4%	2%
Treaty practice	6%	5%	4%	5%
U.S. foreign relations	4%	0%	3%	5%
Total	100%	100%	100%	100%

fell under “other” (six percent). Only *YJIL* exceeds that number of “other” (with eight percent). For instance, *International Law as Therapy*<sup>34</sup> does not easily fall into any of our other 31 categories. Some in the “other” category were related to immunity, history, or loosely connected to international institutions.

Turning then to *HILJ*, the data present a very different rendering. Recall that *HILJ* published only 183 articles in the fifteen years under study. Unexpectedly to us, “theory” dominates the *HILJ* collection with twenty-seven articles (fifteen percent). Human rights comes second at nine percent. Apart from these, *HILJ* manages to publish articles nearly in equal number from many other topics: armed conflict, international arbitration, international business, international courts, international

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34. See Martti Koskenniemi, *International Law as Therapy: Reading the Health of Nations*, 16 EUR. J. INT’L L. 329 (2005).



humanitarian law, and private international law, among them. The three primary topic categories for which *HILJ* has not published any articles are cultural heritage, tax, and non-proliferation/arms control.

*YJIL* is also high in the theory category, mostly due to a symposium discussing theory and the contributions of the New Haven School. That skews the results for *YJIL* in favor of theory (twenty-three articles; twelve percent). Trade and human rights tie for second place in *YJIL* at eight percent (sixteen articles) each. *YJIL* also publishes regularly across a wide range of topics.

### B. *Changes Over Time and Annual Balance*

We also look at this data to ask whether certain topics have grown in publishing popularity over time or whether they have remained relatively constant. One expectation was that topics that were central to policymaking at particular moments in global history would lead to growth in scholarship in those areas, or that spikes would occur in salient topics consistent with current events at the time. This was not the case. The trends among the journals do not align with world events. But not all the journals are consistent over time across all topics.

With respect to *AJIL*, armed conflict has seen fewer appearances recently after having been a strong focus five or more years ago, but the numbers are too small to lead to any meaningful conclusions, and there are earlier drops as well. International criminal law and transitional justice have also experienced some decline in appearance in *AJIL*. But because *AJIL* publishes across the range of topics with some consistency, the data indicate that certain topics are either reliably popular, such as human rights, treaty practice, and intergovernmental organizations, or they are the subject of an agora so they experience brief spikes.

This trend of having consistent favorites and then a few occasional additional topics of interest is even more noticeable in the *EJIL* context. Some topics move up in relative popularity, such as comparative law and cyber affairs and technology, but generally the bursts of attention to particular topics are sporadic. Some other topics have dropped off the *EJIL* publication map in recent years, such as cultural heritage (only one article since 2013), Indigenous peoples (eleven articles between 2011 and 2015, but none since), and transnational litigation (only one article since 2012).

*HILJ* and *YJIL* rarely publish articles on the same topic from one year to the next. For instance, only one topic published by *HILJ* in 2018 was repeated in 2019: private international law (that topic also was featured in 2017). Again, where there are concentrations of topics, they result from the publication of a symposium. Otherwise, given how few articles

the student-edited journals publish each year, what may appear to be a concentration is, in some instances, really only one or two articles.

Looking at each journal's topical concentration in a given volume, they vary from year to year, but there is little yearly concentration apart from symposia. For *AJIL*, putting to one side its nearly annual agora, no single topic represents more than twenty percent of a volume. Similar trends occur in the other journals. *EJIL* is more prone to topical concentrations, but not to a large degree. For *EJIL*, human rights dominated the volumes from 2005 to 2010, but since 2010, the representation of human rights articles has significantly diminished in each given volume. The distribution of topics in a single volume for the student journals indicates that they rarely publish more than one or two articles on the same topic in a given volume, especially in the more recent years.

Although the overall numbers are low, that the student journals maintain such topical diversity is interesting when one considers the lack of continuity of staff at those journals. *AJIL* and *EJIL* elect their board leadership every several years. The editors-in-chief typically serve for at least four years and often several more.<sup>35</sup> The student journals change hands every year.<sup>36</sup> So, while one might expect *AJIL* and *EJIL* to be attentive to topic distribution from year to year, that is less expected in the student context, and may be attributed to some other cause.

### C. *Regional Foci*

Along with topics, our team coded for regional focus in each article, if any. We see regional focus as part of the topical discussion in many respects. Early in our analysis, we coded by continent. However, that approach failed to dedicate enough attention to the clear delineation between articles addressing events in the area often referred to as the Middle East, as distinguished from scholarship on Europe and Asia. Thus, we added a "Middle East" category to cover the many articles concentrating on developments in that part of the world.

The majority of articles published by the four journals do not have a regional focus. For example, only sixty-six of the 194 *YJIL* articles have a regional focus. Very similarly, only sixty of the 183 *HILJ* articles have a regional focus. For *EJIL*, 222 of 827 articles have a specific geographic focus. *AJIL* stands out with the greatest number of region-

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35. See, e.g., Am. J. of Int'l L., *AJIL Editor-in-Chief History*, CAMBRIDGE UNIV. PRESS, available at <https://www.cambridge.org/core/journals/american-journal-of-international-law/information/ajil-editor-in-chief-history> (last visited Nov. 13, 2023).

36. To be sure, most student leaders serve on the journal staff for at least one prior year and would be familiar with the articles of the prior year.

specific articles. 105 of the 300 *AJIL* articles have a regional focus. Figure Four highlights that those region-specific *AJIL* articles break down as: fifty-three on North America, nine on South America, seventeen on Europe, one on Australia-Oceania, seven on Asia, eight on the Middle East, and ten on Africa.

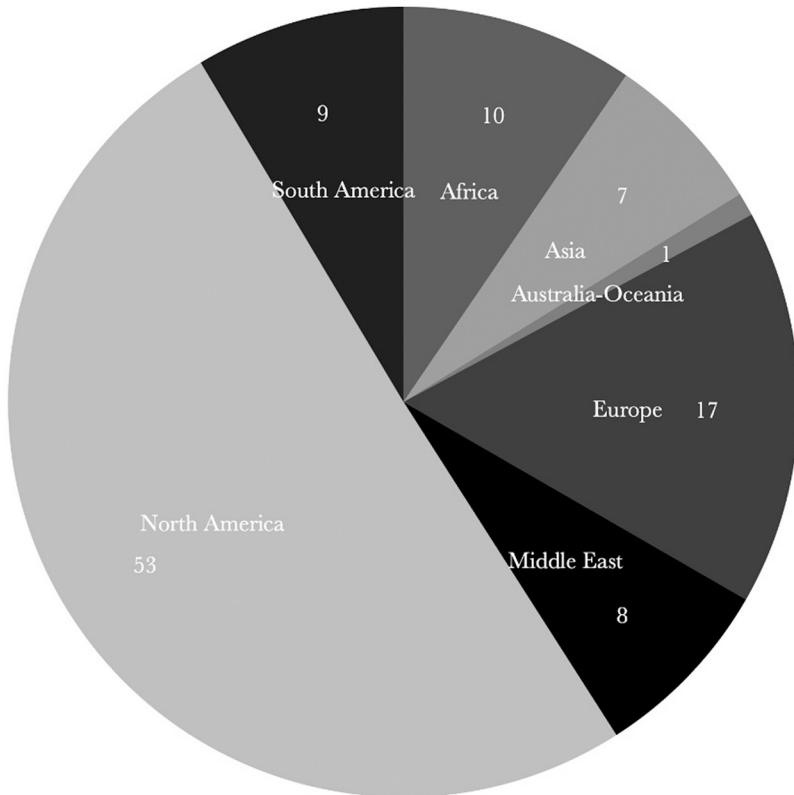


FIGURE FOUR: Regions of Interest of Articles with a Regional Focus in *AJIL* from 2005-2020

It comes as no surprise that *AJIL* might have a regional emphasis on North America, and of course within that, on the United States. We would also expect that *EJIL* might place emphasis on Europe. *EJIL*'s website at one time stated that *EJIL* is "the only journal to provide systematic coverage of the relationship between international law and the law of the European Union and its Member States."<sup>37</sup> Taken as a whole, *AJIL*'s focus on North America slightly exceeds a similar tendency by

37. Eur. J. of Int'l L., *About the Journal*, OXFORD UNIV. PRESS., <https://web.archive.org/web/20230725171832/https://academic.oup.com/ejil/pages/About> (last visited July 25, 2023).

*EJIL*: whereas fourteen percent of *EJIL*'s articles focus on Europe, eighteen percent of *AJIL*'s discuss North America.

V. ANALYSIS

The topical trends presented here tell just the beginning of a story. Looking at these results, it is impossible to say with certainty what is driving these publication trends, but the lack of correlation with current international law events is striking. We expected to see greater alignment between developments in practice and those in scholarship, even if delayed. But apart from some gradual growth over the fifteen-year period in certain topics and some tepid decline in others, the data do not suggest that these journals are seeking to prioritize content reflective of a moment in time.

Likewise, for authors, the trends identified here do not exactly provide a compass for submissions or an expectation of success with any particular journal. Authors are no doubt influenced more by length requirements, institutional weighting (such as tenure requirements or promotion decisions that turn on journal rank), readership interests, cost of submission, and timing than they are by topic trends when they decide what to write and where they ought to send their manuscripts.<sup>38</sup> Further, without access to submission information, we cannot say whether the submissions to each journal are skewed toward particular topic concentrations or evenly distributed. Among other conclusions, it could be that authors ordinarily submit theory-premised articles to *EJIL* because they are familiar with *EJIL*'s reputation for publishing articles about international law theory. Some non-U.S. authors report that they choose not to submit to *AJIL* because they perceive that *AJIL* prioritizes U.S.-styled work or U.S. authors.<sup>39</sup>

As can be expected, publication decisions and article selection sometimes turn on just one or two editors at a journal. Each of these four journals has a different selection process. In those where the editors-in-chief play an outsized role, we might expect greater attentiveness to topical diversity. Student editors and members of the editorial boards of these peer-reviewed journals have reported that they seek to diversify their article base along several dimensions.<sup>40</sup> They look for the best

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38. As Daniel Peat and Cecily Rose demonstrate in their contribution to this symposium, authors may also be influenced by funding requirements. Daniel Peat & Cecily Rose, *The Changing Landscape of International Law Scholarship*, 49 YALE J. INT'L L. \_ (2024).

39. SAILS Conversations, Comments of an author in Chatham House Rule workshop at the Peace Palace Library (May 8, 2023).

40. SAILS Conversations, Comments of an author in Chatham House Rule workshop at Georgetown Law Center (Apr. 1, 2023).

manuscripts, but they are cognizant when they run several articles on a single topic.<sup>41</sup>

The submission process is a critical piece of this puzzle that warrants further research. It is difficult to determine whether these journals compete over the same submissions. While they are no doubt competitors, their submission practices are quite different. For example, one can submit to *AJIL* and to *EJIL* for free through their Cambridge University Press and Oxford University Press platforms.<sup>42</sup> Submitting to the student journals is possible by email, but the vast majority of their submissions are processed through Scholastica, which charges a fee for submissions.<sup>43</sup> *AJIL* set up a Scholastica account to have the same visibility as the student-run journals and now accepts submissions there as well.<sup>44</sup>

Further, we noted above that article length can vary from journal to journal. In concrete terms, what that means is that some journals publish 25,000-word articles whereas others publish articles of half that length. Articles in *HILJ*, *YJIL*, and *AJIL* are interchangeable with word counts of approximately 25,000 words but not so for *EJIL*. *EJIL*'s maximum word count is 15,000 words. Many other peer-reviewed international law journals, including specialty international law journals, typically publish articles of the same length as *EJIL*. Thus, we might also ask how journal fungibility contributes to an imbalance in what gets published.

Among the unexpected findings, we anticipated that we would encounter more articles on the topic of national security, and that the topic merited its own code, but after we reviewed the entire data set, we determined it did not. There was no critical mass of articles that, on the basis of their titles, abstracts, and introductions, warranted categorization as national security. Interestingly, that story is different when looking at the mainline journals: generalist law journals that solicit and publish articles from many different areas of law.

Mainline student-edited journals are prevalent in the United States. We are thinking here of journals such as the *YLJ* and *HLR*. Many scholars, especially in the United States, must choose for a given international law-related manuscript that they have prepared whether to seek to publish

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41. *Id.*

42. See Am. J. of Int'l L., *Instructions for Authors*, CAMBRIDGE UNIV. PRESS, <https://www.cambridge.org/core/journals/american-journal-of-international-law/information/instructions-contributors> (last visited Dec. 28, 2023); *Submitting Manuscripts*, *supra* note 26.

43. See *Pricing*, SCHOLASTICA, <https://scholasticahq.com/pricing/> (last visited Dec. 28, 2023).

44. See Am. J. of Int'l L., *For Authors*, SCHOLASTICA, <https://ajil.scholasticahq.com/for-authors> (last visited Dec. 28, 2023).

that manuscript in a mainline journal or an international law journal. International law scholars have shared stories about submitting to mainline journals, and receiving a reply from those editors stating that the scholar ought to submit instead to the international law journal at the same law school. These experiences have suggested to some scholars that mainline journals are not interested in publishing international law articles. While that is a vast generalization, the data reflect that some of the leading journals publish very few international law articles. When one looks closely at their publication trends, international law maintains only a small presence among the articles published in mainline journals.

Take the *YLJ*, for example. Between 2005 and 2020, *YLJ* published 186 full-length articles. Seven of those articles covered a topic that would fit within an “international law” description. Three more could be considered “comparative law.” Thus, about five percent of the *YLJ*’s article collection from 2005–2020 meets the criteria of this project.<sup>45</sup> Compare that to *YLJ*’s constitutional law collection, which comprises five times as many articles (twenty-five percent of the 186 articles) published during that period.

Many factors could contribute to the disparity between the number of international law articles and other types of articles, like constitutional law articles, published by mainline journals. First, constitutional law may be an outlier. We could compare to a different sub-field, such as bankruptcy law.<sup>46</sup> Bankruptcy law articles make up three percent of *YLJ* articles; international law exceeds at least that narrow set.

Another explanation may be that *YLJ* receives many more submissions on constitutional law. As noted above, submissions data were not available, but we may be able to use a proxy by examining the difference in the number of constitutional and international law faculty. A rough count of faculty teaching in those fields in U.S. law schools reveals that the appearance of constitutional law articles in *YLJ* outweighs constitutional law’s presence among law faculty as compared to international law faculty.<sup>47</sup> There are not five times as many scholars working on constitutional law as there are working on international law. Our count identified approximately 700 U.S. law faculty members

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45. Adding “national security” results in four more articles.

46. Comparisons are doubly hard for international law scholarship given (1) how many subfields of international law we can identify; (2) how international law also sweeps in more foreign scholars than other areas of law.

47. The comparison remains imperfect. While nearly all law students take constitutional law and have some knowledge of it, the same cannot be said of international law.

teaching or otherwise working on international law.<sup>48</sup> Roughly 1,450 U.S. law faculty teach or otherwise study constitutional law.<sup>49</sup>

*HLR* publishes even fewer international law articles. In the relevant time period, *HLR* published four articles on international law and two on comparative law. A closer look at these six reveals an emphasis on U.S. foreign relations as the subfield of greatest interest to *HLR*.

Interestingly, both *YLJ* and *HLR* feature many other manuscripts—just not full-length articles—on international law. Student notes, comments, and essays on international law topics make frequent appearances and may even outrank other popular areas of law.

We do not make claims here about journal selectivity nor does our current information indicate how widespread these trends may be. But comparisons between the leading international law journals with *YLJ* and *HLR*, as two leaders among mainline journals, are illustrative in demonstrating how few international law articles may reach a generalist audience. The impacts of this imbalance are yet to be fully understood.

The data prompt a series of queries at the center of the SAILS project: is it important, as a matter of intellectual diversity or readership or for some other reason, that the mainline journals include *some* international law articles, and if so, which ones? What are the topical trends among the few international law articles in those journals, and with what result? Do they create a perception among non-international law specialists about what international law is? Has the proliferation of international law journals helped or hurt the development of international law? As Harlan Cohen writes, students and faculty created international law journals to draw attention to the field when journals like *YLJ* and *HLR* were not publishing enough.<sup>50</sup> It remains unclear, however, whether having these internationally focused outlets serves the interest of reaching a wider audience.

For international law journal editors and publishers, the findings presented in this Essay may lead to conclusions very different from those for authors. International law publication has many objectives for each of the constituencies highlighted here, and readily covering many areas of international law need not be one of them. Still, for “generalist” international law journals, some balance among subject matters may be seen as important to maintain readership and in the advancement of the field. The findings prompt normative questions that may not have universal answers. For instance, we might ask whether we think

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48. Authors’ count (summer 2023).

49. *Id.*

50. Cohen, *supra* note 3, at 359.



international law journals ought to weigh topical distribution in their decision-making process. Is it important for editors of these premier journals to diversify the journal's content? Ought they try to capture a particular moment in time by publishing content reflective of trends in their submissions? Anecdotal qualitative evidence suggests that at least some editorial boards (not necessarily these) do take diversity of content into account, but they are also considering many more interests and factors that may be prioritized differently. Likewise, we might ask whether every topic merits the same treatment. Even if submissions were normalized, different scholars may have divergent views on whether each of the thirty-two topics identified here deserves the same page space.

The thirty-two topics discussed here have imperfect edges, and "theory" presents a special challenge. The coders also sought to identify the methodology of each article, but those results are not yet refined. International relations (IR) scholars have carried out a similar exercise, coding scholarship from that field for topic and for methodology.<sup>51</sup> The scholarship in our collection did not produce as clear boundaries as those in the IR collection, perhaps because IR scholarship places greater emphasis on social science methods. While "theory" may be considered by some to be a methodology more than a topic, we nevertheless set it apart given its prominence. Moreover, not all theory manuscripts lent themselves to any other topic, suggesting to us that theory is worth its own label, and that may be especially true for international law, which has relied heavily on soft law standards in some areas. Nevertheless, in future work, we hope to capture methodological trends and innovations in publishing.<sup>52</sup>

Finally, there may also be a bubble effect that will become more obvious as we collect more data. As specialized international law journals grow in number, they might be having the effect of drawing topics away from generalized international law journals and toward specialty journals. For example, not many of the four journals studied here publish investment and trade articles regularly. Notably, there are at least a half dozen specialized international law journals that publish articles

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51. See *Journal Article Database*, TEACHING, RSCH. & INT'L POL'Y AT WM. & MARY, <https://trip.wm.edu/dashboard/journal-articles> (last visited Dec. 28, 2023).

52. That would allow us also to consider the impact of scholarly movements and schools of thought and to investigate empirically trends such as those identified by James Gathii. See generally James Thuo Gathii, *The Promise of International Law: A Third World View*, 36 AM. SOC'Y INT'L L. PROC. 377 (2021).



on those topics.<sup>53</sup> So, we may find that those topics have been funneled into these other outlets, just as international law journals may attract more international law articles than mainline journals. As other essays in this symposium show, trends in journal publishing prompted the creation of new journals in some instances to fill perceived methodological or subject area gaps.

## VI. CONCLUSION

These results in some ways resonated with our expectations and those of others in the field. For example, many scholars perceive *EJIL* to publish articles that advance novel arguments on international law theory. These results show that perception to be accurate. But in other respects, the data may be surprising. For instance, one might expect that when armed conflict is the centerpiece of powerful government foreign policy, more scholarship would emerge on the international law of war. However, at least across the journals studied here, that was not the case.

As described above, several questions remain outstanding from this initial cut of the data, and many more emerge when one considers additional analyses with the expanded data set. Future work will build upon this analysis. In the immediate, however, this Essay has shown that leading international law journals tend to publish a wide range of international law topics over time, although they have concentrated somewhat on topics related to armed conflict, human rights, and theory. Without submission information, it is hard to know whether authors are writing more in these areas than in others, whether journal editors gravitate toward them, or whether the proliferation of specialized international law journals has limited the pool of certain topic area articles. Likewise, the vast number of international law journals may have resulted in fewer international law articles appearing in general law journals, which may in turn have implications for readership or for the dissemination of ideas—a point also confirmed with a different slice of the data in Hathaway and Bowers.<sup>54</sup>

We expect these trends to be confirmed beyond the four journals examined here. For now, these results set the stage for future conversations about how and why international law scholarship is published.

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53. The *Journal of International Economic Law*, *World Trade Review*, and the *Journal of Investment and Trade* are some examples.

54. Oona Hathaway & John Bowers, *International Legal Scholarship: An Empirical Study*, 49 *YALE J. INT'L L.* (2024).