

# Review Symposium

## Digital Empires – A Review Symposium

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In this issue, the ZaöRV for the very first time publishes a book review symposium. That is, instead of our customary individual reviews of different books in international, European, and comparative public law, we publish three reviews of one single book, namely Anu Bradford's *Digital Empires: The Global Battle to Regulate Technology* (Oxford University Press 2023), followed by a brief response from the author. As many, if not most, other academic journals that publish book reviews, the ZaöRV has previously published single pieces reviewing multiple books, including occasionally multiple books by the same author.<sup>1</sup> When appearing in new editions, books have occasionally been reviewed a second or third time.<sup>2</sup> The ZaöRV has published thematic book review sections, for example, a separate section with

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<sup>1</sup> See, e.g., Thilo Marauhn, ZaöRV 57 (1997), 1170-1177 (reviewing, among others, multiple works by Julie Dahlitz).

<sup>2</sup> See, e.g., the reviews of the first three editions of Alfred Verdross's *Völkerrecht*: Ulrich Scheuner, ZaöRV 8 (1938), 590-593; Ulrich Scheuner, ZaöRV 14 (1951/52) 354-357; Hermann Mosler, ZaöRV 16 (1955), 712-713.

ten reviews of books on the law of the sea.<sup>3</sup> The ZaöRV has also exceptionally published a review together with a reply by the author.<sup>4</sup> To the best of our knowledge, however, the ZaöRV has never before published a book review symposium.

To introduce this symposium, we will, first, make a case for holding such symposia in academic journals. Secondly, we will explain why Anu Bradford's *Digital Empires* is particularly well suited to form the subject of our first review symposium. Thirdly, we will introduce the different contributions to the symposium. The introduction concludes with an outlook on continuing the conversation that this symposium is intended to commence.

## I. The Value of Book Symposia in Academic Journals

Book review symposia are more than just multiple reviews of the same book. Because a book review symposium brings together different contributions, sometimes preceded by an introduction and often concluded by the author's response, the individual reviews can be more succinct in summarising the book under review and more selective in picking an angle to reflect on the book in greater detail. In that sense, the individual contributions are perhaps more accurately described as a set of comments on the book. As such, they can be more analytical and less descriptive than stand-alone pieces. The contributions to this review symposium illustrate this idea.

We cannot, of course, claim intellectual ownership of the idea for such a format. Book review symposia have become particularly well-established formats in academic blogs, including well-known international, European, and public law blogs.<sup>5</sup> Such book symposia seem to be somewhat less common with academic journals. There have been a few notable exceptions in recent years, including the following illustrations in the field of international and comparative public law. In 2021, EJIL published no less than 12 reviews of Martti Koskenniemi's *To the Uttermost Parts of the Earth: Legal Imagination and International Power* (Cambridge University Press 2021) – each commenting on a different chapter of the book – and a response by the

<sup>3</sup> ZaöRV 38 (1978), 983-999.

<sup>4</sup> See ZaöRV 76 (2016), 1001-1021 (Günther Frankenberg reviewing Uwe Kischel's *Rechtsvergleichung*, with Kischel replying, followed by François Venter reviewing Frankenberg's *Comparative Law as Critique*).

<sup>5</sup> See, for example, <<https://www.ejiltalk.org/category/ejil-book-discussion/>>, last access 1 August 2025; <<https://voelkerrechtsblog.org/article-categories/book-review/>>, last access 1 August 2025.

author.<sup>6</sup> In 2023, the Yearbook of International Humanitarian Law published two reviews of Samuel Moyn's *Humane: How the United States Abandoned Peace and Reinvented War* (Farrar, Straus and Giroux 2021).<sup>7</sup> In the same year, ICON published four reviews of Melissa Crouch's edited volume *Women and the Judiciary in the Asia-Pacific* (Cambridge University Press 2021).<sup>8</sup> Finally, our fellow German Archiv des Völkerrechts recently published ten reflections on re-reading Carl Schmitt's *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum* (Greven 1950).<sup>9</sup>

Unlike early comments on current affairs, which may benefit particularly from the speedy publication process offered by academic blogs, there is no good reason why book review symposia should not be held in academic journals, too. Indeed, academic blogs with a high volume of submissions may sometimes find it difficult to squeeze in a multi-piece symposium, disrupting their feed of current affairs pieces for several days or longer. This is an issue that academic journals do not face or only to a much lesser extent. Academic journals are also naturally in a position to publish an entire symposium at once. Publishing the symposium as a whole may contribute to a holistic perception of the symposium, also for future reference.

We therefore believe that there is distinct value in publishing book review symposia in an academic journal such as the ZaöRV. At the same time, we are conscious of the distinct advantages of blog symposia. Publishing different contributions to a symposium piece by piece over period of several days, weeks, or even months on a blog may have the benefit of attracting the attention of a greater number of readers for a sustained period of time. Depending on their editorial policy, blogs may be less constrained – given the absence of page limits – in how many posts they publish. Blogs can thus sometimes include a greater diversity of perspectives in a review symposium than academic journals. Lastly, blogs may also be somewhat more creative and include non-written, that is, audio-visual material. As an experiment spanning different publication formats, we intend to combine the advantages of a journal review symposium with a continuation by way of a sustained, multi-perspective blog conversation on Völkerrechtsblog, which will feature

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<sup>6</sup> EJIL 32 (2021), 943 ff. In its 2024 volume, EJIL's book review section featured a series of reviews of different books related to the overarching theme 'International Law and Technology as a Critical Project: A Collective Reading' (EJIL 35 (2024), 963 ff.) and a review symposium with the aim and theme of 'reflecting on a century of scholarship at the Hague Academy of International Law', featuring different scholarly works (EJIL 35 (2024), 527 ff., 787 ff.).

<sup>7</sup> Yearbook of International Humanitarian Law 24 (2021), 141 ff. (published in 2023).

<sup>8</sup> ICON 21 (2023), 690 ff.

<sup>9</sup> AVR 61 (2023), 123 ff.

reactions to the book as well as to the contributions to this symposium. We will return to the practicalities of this experiment at the end of this introductory piece.

Starting with the present issue, the ZaöRV will thus occasionally feature book review symposia. To be clear, such symposia will remain the exception. The volume of books published in international, European, and comparative public law continues to increase, as far as we can tell, and the ZaöRV thrives to review as many high quality books in these fields as we possibly can. The traditional standalone book review will therefore remain the ZaöRV's standard and we will have to be selective in choosing books for review symposia. The added value of discussing a book from various angles in several comments – and thus the value of holding a review symposium – is greater the wider the ground a book covers, the greater its potential to reshape the field, and the more thought-provoking its argument in doing so.

## II. (Re-)Reading *Digital Empires*

Anu Bradford captures the complex global landscape of digital governance in the analytically potent image of three competing 'digital empires', that is, the world's major digital powers, and their distinct approaches to digital regulation: the United States (US) with a market-driven, China with a state-driven, and the European Union (EU) with a rights-driven approach. *Digital Empires* explains how digital regulation around the world is shaped by 'horizontal' battles between these empires for spreading their regulatory approach globally as well as 'vertical' battles between these powers and private technology corporations. Bradford is not the first to describe these distinct regulatory approaches.<sup>10</sup> But her book is unique in bringing well-

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<sup>10</sup> For an extensive study of the European 'rights-based' approach, see Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge University Press 2022) (contrasting 'digital constitutionalism' with 'digital capitalism'); on the EU's rule-making power in the digital sphere, see Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020); for an early assessment of conflicts between different 'sovereigns' in 'cyberspace' (and especially between Europe and the US), see Lawrence Lessig, *Code: Version 2.0* (Basic Books 2006), 294-310; for the different understandings of privacy in the US and Europe, see already James Whitman, 'The Two Western Cultures of Privacy: Dignity versus Liberty', Yale L.J. 113 (2004), 1151-1222; on all three 'empires', see the geopolitical epilogue in José van Dijck, Thomas Poell and Martijn de Waal, *The Platform Society* (Oxford University Press 2018), 163-166, and more extensively (also including Mexico) Ingrid Schneider, 'Democratic Governance of Digital Platforms and Artificial Intelligence? Exploring Governance Models of Chi-

accepted structural characteristics of key regulatory models together. The book skilfully develops a powerful narrative that is sufficiently simple to build an intelligible framework of digital regulation around the globe, sufficiently nuanced to understand different approaches in their own terms as well as differences and similarities between them, and sufficiently dynamic to draw out tensions as well as convergence.

It is therefore hardly surprising that the book has already attracted significant attention since its publication in 2023. It has been cited hundreds of times in subsequent academic literature,<sup>11</sup> and has been reviewed more than a dozen times, in academic journals<sup>12</sup> as well as in outlets reaching a wider audience,<sup>13</sup> in English as well as, for example, in French,<sup>14</sup>

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na, the US, the EU and Mexico’, *JeDEM – eJournal of eDemocracy and Open Government* 12 (2020), 1-24.

<sup>11</sup> See <<https://badge.dimensions.ai/details/id/pub.1164501651>>, last access 1 August 2025.

<sup>12</sup> See, e.g., Kal Raustiala, ‘Digital Empires: The Global Battle to Regulate Technology’, *AJIL* 118 (2024), 592-599; Han-Wei Liu and Weihuan Zhou, ‘Digital Regulation in the Shadow of Digital Empires: a Quest for Cooperation?’ *JIEL* 27 (2024), 186-191; Mahmoud Javadi, ‘Digital Empires: the Global Battle to Regulate Technology. By Anu Bradford’, *Int’l Aff.* 100 (2024), 849-850; Liam Gregor Moorhouse, ‘Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*’, *Edinburgh Law Review* 28 (2024), 320-322; Neha Mishra, ‘Review of Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*’, *UC Berkeley Journal of Law and Political Economy* 4 (2024), 989-990; Patrick Leblond, ‘Anu Bradford, *Digital Empires: The Global Battle to Regulate Technology*’, *World Trade Review* 23 (2024), 548-550; Marta Soprana, ‘Digital Empires: The Global Battle to Regulate Technology by Anu Bradford, Oxford University Press, 2023, 352 pp’ *Chinese (Taiwan) Yearbook of International Law and Affairs* 41 (2023), 403-406.

<sup>13</sup> John Thornhill, ‘AI and the Next Great Tech Shift’, *Financial Times*, 14 September 2023, <<https://www.ft.com/content/e2452e84-133b-4674-bfe8-cd82e2d9aeeb>>, last access 1 August 2025; Akash Kapur, ‘Can the Internet Be Governed?’, *The New Yorker*, 29 January 2024, <<https://www.newyorker.com/magazine/2024/02/05/can-the-internet-be-governed>>, last access 1 August 2025; Anja Schiffrin, ‘Fixing Disinformation Online: What Will It Take to Regulate the Abuses of Big Tech Without Undermining Free Speech?’, *The American Prospect*, 13 October 2023, <<https://prospect.org/culture/books/2023-10-13-fixing-disinformation-online-bradford-stebbins-review/>>, last access 1 August 2025; Audrey Hatfield, ‘The Battle for Digital Supremacy: No Clear Victor in Sight’, *Medium*, 19 September 2023, <<https://medium.com/journalism-trends/the-battle-for-digital-supremacy-no-clear-victor-in-sight-80993498d90f>>, last access 1 August 2025; Sofia Bonilla, ‘The Impact of Competing Tech Regulations in the EU, US and China: A Review of Anu Bradford’s Digital Empires’, *European Journalism Observatory*, 12 September 2023, <<https://en.ejo.ch/ethics-quality/the-impact-of-competing-tech-regulations-in-the-eu-us-and-china>>, last access 1 August 2025.

<sup>14</sup> See, e.g., Chloé Bérut, ‘Anu Bradford, *Digital Empires. The Global Battle to Regulate Technology*, New York, Oxford University Press, 2023, 599 p.’, *Politique Européenne* 83 (2024), 130-134; Mathilde Velliet, ‘Digital Empires: The Global Battle to Regulate Technology. Anu Bradford. Oxford, Oxford University Press, 2023, 608 pages’, *politique étrangère* (2024), 196-199; Catherine Prieto, ‘Digital Empires: The Global Battle to Regulate Technology’, *Concurrences* N° 2-2024, Art. N° 118800, (244-246).

Italian,<sup>15</sup> German,<sup>16</sup> Dutch,<sup>17</sup> and Czech.<sup>18</sup> At the same time, ours is the first review symposium of *Digital Empires*, to the best of our knowledge. A symposium is particularly suited to review this book.

This is so for three main reasons. First, *Digital Empires* is an exceptionally broad work, which covers a variety of developments across the globe in the fields of platform regulation, data protection, data security, copyright, and Artificial Intelligence (AI), among others, from the perspectives of law, economics, and policy. Thus, it allows to be commented on from different disciplines, and its scope is prone to spark further suggestions for enriching the perspectives on digital regulation around the globe. This symposium reads *Digital Empires* not as the end of the conversation on the global battle for regulatory influence, but rather as a starting point which allows scholars to deploy – and critique – the lens offered by Bradford.

Secondly, the book is (only or already) two years old. As such, it is a testimony to a particular moment in time. Re-reading it today, the author's hopes and assumptions for alignment between the European and the US approaches stand out much more brightly than at the time of the book's publication. The book describes broad, long-term developments. But at least in hindsight, its underlying policy outlook seems to have viewed geopolitics – as was perhaps inevitable – through the lens of the Biden presidency. Even if the extent of the rupture may have come as a surprise, the early 2020s were thus – already then and even for a Democratic presidency – exceptionally transatlantic. At the time, hopes for transatlantic alignment reflected – at least to a certain degree – a more widely shared expectation of liberally-minded scholarship. Not least under the impression of Russia's full-scale invasion of Ukraine, the US and Europe had come together to jointly support the attacked. There was also a strong conviction by politicians in both regions (or 'empires' in Bradford's terminology) that Big Tech had accumulated too much power, that it needed to be constrained, and that the errors of the laissez-faire approach to tech regulation in the 2000s should not be repeated

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<sup>15</sup> See, e.g., Siria Carrara, 'A. BRADFORD, *Digital Empires*. The Global Battle to Regulate Technology, New York, Oxford University Press, 2023, pp. 599' *Nomos Le attualità nel diritto* (2024), <[https://www.nomos-leattualitaneldiritto.it/wp-content/uploads/2024/10/3.-Recensione\\_Carrara-ultima.pdf](https://www.nomos-leattualitaneldiritto.it/wp-content/uploads/2024/10/3.-Recensione_Carrara-ultima.pdf)>, last access 1 August 2025.

<sup>16</sup> See Gerhard Wagner, 'Künstliche Intelligenz – die EU als globaler Regulierer?', *Frankfurter Allgemeine Zeitung*, 4 March 2024, 18.

<sup>17</sup> Caroline de Gruyter, 'Waarom Europa de toon zet in de strijd tussen grote tech-bedrijven', *NRC*, 7 December 2023, <<https://www.nrc.nl/nieuws/2023/12/07/waarom-europa-de-toon-zet-in-de-strijd-tussen-grote-tech-bedrijven-a4183595>>, last access 1 August 2025.

<sup>18</sup> See, e.g., Martin Erlebach, 'BRADFORD, A.: *Digital Empires*: The Global Battle to Regulate Technology' *Revue pro právo a technologie* 29 (2024), 213-220.

in the advent of generative AI. European regulation had just started to gain traction: the GDPR was a couple of years old (and the EU took pride in its power to regulate globally via the ‘Brussels Effect’<sup>19</sup>), the Digital Services Act and the Digital Markets Act had been enacted, but were not yet applicable, and the AI Act was already in the making. Today, one looks back at this time of so-close but so-distant history almost with a sense of nostalgia, so sharp is the contrast to the policies of the current US administration, as the contributions to this symposium emphasise.

Thirdly, as we are trying something new with this format – not only a symposium as such, but also a cooperation with a blog to allow for an ongoing exchange – it seemed only fitting that the first book deals with the mutual influences between law and new technologies in an international context.

### III. (Re-)Reviewing *Digital Empires*

Against the backdrop of the ‘unholy alliance of Big Tech and the Trump administration’, Erik Tuchtfield suggests that there is more to explore in the global regulatory landscape than just three empires (with by now two of them being authoritarian). He points towards Brazil and India as two democratic states which have chosen their own pathway to diminish the influence of private Big Tech companies. In Brazil, the judiciary has confronted Big Tech in what has become a remarkably personalised stand-off between Supreme Court judge Alexandre de Moraes and Elon Musk. In India, the government understands digital infrastructure as public infrastructure and has started to develop an ‘India Stack’, which offers digital identification and payment services for millions of citizens. Tuchtfield thus finds looking beyond Bradford’s three empires valuable – and, indeed, more uplifting.

Stefania di Stefano’s contribution focuses on the role of technology companies as agents in the regulatory space and the interaction between what Bradford describes as horizontal and vertical regulatory battles. Di Stefano emphasises the connections between these two battle dimensions as companies strategically use the horizontal battles between different regulatory empires to win their own vertical battles with states and the EU. She finds this strategy illustrated in companies’ shift from alignment with the EU’s

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<sup>19</sup> Anu Bradford, *The Brussels Effect: How the European Union Rules the World* (Oxford University Press 2020).

rights-driven approach to alignment with the US's more aggressive deregulation stance in the second Trump presidency. As this re-alignment weakens the EU's rights-driven as well as the traditional US's market-driven approach, di Stefano concludes that this development ultimately stands to benefit the global influence of the Chinese state-driven approach.

In their joint review, Amnon Reichman and Kai Purnhagen identify three underexplored elements in *Digital Empires*: the cost and uncertainty of regulation, the fluidity of regional market competition, and the geopolitical implications of 'data colonialism'. Reichman and Purnhagen highlight the constant regulatory competition faced by the EU. In order to survive as an 'empire', it must demonstrate the added value of its regime to both its constituency and the regulated industry. The authors argue that such value can be found in the function of the European rights-driven model as a legal shield against extractive data collection by foreign companies. At the same time, they highlight how the far-reaching effect of this regulation is also subject to criticism. To some, it is a new form of colonialism, realised by imposing law beyond European borders. Overall, Reichman and Purnhagen conclude, the analytical framework developed by Anu Bradford, can help structure this discussion.

In her response, Anu Bradford agrees that Global South jurisdictions deserve more thorough examination, as they re-position themselves amid growing tensions among the three digital empires and reconsider their dependencies on those empires. Two years after the publication of her book, she finds her hopes of the US and the EU aligning as techno-democracies countering China's digital authoritarianism dashed by the US pivoting towards authoritarianism. At the same time, she notes that the EU's internal challenge of losing confidence in its rights-based regulatory approach threatens the core of its digital empire more than any rupture with an increasingly authoritarian US. As the narrative in EU digital policy increasingly embraces de-regulation to enhance competitiveness, Bradford insists that rights-based digital regulation and competitiveness should not be seen as inherently incompatible. By giving up its regulatory model, the EU would capitulate in the horizontal battle between the digital empires, at a time when the rule of law and liberal democracy are increasingly under pressure globally. Instead, Bradford urges the EU to 'demonstrate that a digital order based on fundamental rights and democracy creates stability and prosperity'.

## IV. Outlook: an Invitation to a Global Conversation

This symposium is intended as the opening of a broader conversation. To this end, we aim to continue the exchange of ideas at Völkerrechtsblog in their open-ended ‘ReflectiÖns’ review format. This format allows readers of *Digital Empires* to share and further develop the thoughts and critique sparked by this symposium on an ongoing basis, and in a variety of formats – whether in written text, audio, or video comments. Given the global scope of the book, we particularly invite contributions adding additional perspectives from more diverse geographical backgrounds than the review symposium in these pages could reflect.<sup>20</sup>

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<sup>20</sup> The call for ‘reflectiÖns’ can be accessed here: <<https://voelkerrechtsblog.org/call-for-reflections-digital-empires>>.

