Peace, war, law: teaching international law in contexts

Megan Donaldson (Lecturer in Public International Law, University College London)

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I. A complex of contexts

This essay takes up the question of what it is to teach international law 'in context', drawing on experiences of teaching undergraduate survey courses in the US and UK, and design of a new LLM module on Histories of International Law.[1] I begin with a word on the context in which I am writing. Many international lawyers in the global north are now taking a close interest in the ways in which international law is implicated in empire and post-imperial power relations; and studied and practiced differently in different states (see, e.g., Chan 2014; Mälksoo 2015; Beatson and Zimmermann 2004; Roberts 2017; Roberts et al. 2018; Riegner 2021). In the UK at least, teaching has been a major vector of influence in academic and professional international law, in ways we are only now beginning to study (Ranganathan 2021, 144–6).[2] We are seeing today an explosion of projects exploring teaching of international law, many of which are only just beginning; and which intersect with more ambitious visions for decolonization of knowledge across the university.[3] This essay is only one contribution to

[1] I am grateful to colleagues, teachers, the symposium editors and participants, as well as anonymous referees, for conversations and comments which enriched my thinking.

[2] It is notable, for example, that Lassa Oppenheim's two-volume *International Law: A Treatise* (1905–6), the pre-eminent British reference on international law in the early twentieth century, subsequently edited by figures who went on to hold leading chairs or sit on the International Court of Justice, was seen by Oppenheim himself as 'a book for students written by a teacher': Oppenheim 1905, I, vii.

[3] See, for a very truncated sample, the series on 'Teaching International Law: Between Critique and the Canon' (https://twailr.com/series-introduction-teaching-international-law-between-critique-and-the-canon/); the collection of webinars on 'Teaching International Law' organized by the British Institute of International and Comparative Law

this discussion, and a limited and impressionistic one at that. I have left many threads unfollowed, and points bereft of reference. Moreover, although debates about teaching range in many different directions, I hew closely here to the symposium's organizing theme of context. The essay traces how the descriptor or aspiration 'in context' has refracted for me into distinct questions, about the nature of teaching as a context of its own; what teaching international law 'in context(s)' might look like; and the promise and limits of interdisciplinarity in illuminating contexts.

II. Teaching as a context

To take up the credo of the 'Law in Context' book series and this *Journal*, working 'in context' involves exploring law not in isolation but embedded in social, cultural, intellectual, economic and other systems, and making sense of it with interdisciplinary tools adequate to this larger landscape. However, the kind of content one can convey in teaching is shaped most basically by teaching *as a* context—what teaching *is* as a form of scholarly work and expression distinct from, say, academic writing, or presenting to colleagues. Academic writing, while hardly a frictionless republic of letters, can be imagined as a conversation extended over time and space, with relative freedom to craft one's interventions (at least within bounds of the material and institutional incentives which govern both researchers and publishers). In the realm of writing, one cannot choose or predict one's readers, and nor are we all necessarily engaged in the same conversation. Teaching is more tightly circumscribed and hierarchized. It is interaction with particular students, in collaboration with colleagues (particularly on survey courses), subject to rules on modalities of content, interaction and assessment.

(https://www.youtube.com/playlist?list=PLrRqwcJCpBFFpFdRhTJjDpQa4FHj9KCtg); Anghie and Real 2020; al Attar 2022.

This institutionalization fosters a degree of stability, or even stasis, in the material taught, with even research-led elective courses bounded by their place in a larger curricular offering.

The role of the teacher, and the degree of authority they enjoy in any classroom exchange, may be more fluid today than in the past. However, in teaching of any kind, the teacher has a responsibility they might not have as an academic interlocutor, to deal in some way with core understandings that are widely shared by others in the discipline or field of practice (at least in the relevant state or region), and will be essential for the student to operate with any fluency in the field—even if these core understandings also need to be put in question (Anghie 2020). Even in electives in which a 'core' content is less self-evident, the teacher assumes more responsibility than they would in a scholarly encounter for the conversation within class, however fluid and egalitarian, going *somewhere* meaningful.

Relative to writing, one's addressees in teaching are finite and known. Indeed, one will usually come to know quite well the students in the course, and it will be natural to frame what one says with at least one ear for what they might already know or think; what will be familiar or provocative or useful to *those* students in *that* moment. In an oblique sense, through this interpersonal relationship, teaching is always oriented to the future. It must speak in some way to how a younger generation see the world, and what they will do in it.

Teaching is often, though, an oscillation between the creative and the mundane. It ranges from crafting the opening of a lecture, and engaging with students in ways that are surprising or disorienting, to rearranging the online learning platform and policing the submission of work. Aspects of teaching can also feel increasingly mediated by bureaucratic processes and requirements, some institutional and some governmentally-imposed.

Teaching in context must mean, then, negotiating with these contexts of teaching. Ideally we would keep the more mundane or managerial demands in the background, and make the other constraints intellectually productive in some way. This might mean taking the divisions between fields and courses less as natural boundaries, and more as constructions to be examined. The need to transmit or convey 'basic' or 'core' competencies could offer an opportunity to re-examine the centrality of these areas, and their foundations. Institutionalized constraints—the artificial container that is the syllabus, the 1- or 2-hour seminar, or the online learning platform—might force explicit articulation of why teachers cut into the subject in this way or that, offer one piece or another as the first reading which sets the path for what follows. The need to speak to and with particular students, in a particular moment, could provoke reflection on what it is we are transmitting as teachers, and students' questions and challenges may force us to consider what we're saying in an unexpected light. Grappling with all this is hard, creative work that can and should reshape the way we think about the field and our own research.

III. Teaching international law in its contexts

Engaging with the contexts of teaching, and teaching in context, feels particularly urgent in international law at present, as international lawyers are increasingly confronted with the fragility of the field's claims to universality. Students also bring to this disciplinary questioning their own experiences, interests and convictions. In my experience, there will typically be more than one student in an undergraduate module who has, or has family who have, been part of the revolutionary movements we talk about, fought in the wars, fled regime change. Students may still be subject to repressive governments in ways that call on universities to take active measures to protect the classroom as a site of free discussion (Woolcock 2021). Even students less directly affected by

international events may come to international law with a strong sense of the need for a far-reaching revision of the international order; anxiety about the precarity of democracy and liberal internationalism; an awareness of the destabilizing effects of (inter alia) climate change; and frustration at the immense difficulty of effecting meaningful change globally. They may be sympathetic to critical perspectives, but also impatient with what feel to them like familiar lines of critique, however novel these lines might be in the international law syllabus. Students want to know that international law can make change of a kind they want to see. In the classroom, this produces a potentially volatile, if generative, mingling of cynicism and hope.

The challenge to teach international law 'in context' arises for teachers regardless of their own theoretical stance on law. Treating law as operating wholly autonomously from circumstances of its formation and evolution creates almost insuperable difficulties for explaining foundational matters, like how the things we call states are demarcated from things that are not states (and how some entities—South Sudan, East Timor—manage to cross this line, while others, like Palestine, are held in a state of suspended quasi-statehood). A commitment to positivism (in the sense of attentiveness to the threshold of state consent and a rigorous distinction between what is actually law and what might be normatively desirable), similarly cannot negate the fact that states have consciously adopted ambitious normative commitments premised on a cosmopolitan vision, the meaning of which falls to be interpreted; and that the delineation of what counts as law from soft law, or non-law, can be a highly subjective exercise. *Some* kind of engagement with facticity, with the institutional organization of power, is part of international law on even a strictly positivist account, and crucial for understanding how rules actually operate.

That said, the move to 'context' does have implications for one's theory of law. There is clearly a *choice* of context(s) in which to situate developments, imposed rather than emerging from the developments themselves, even if some contexts, notably the geopolitical, are in international law taken as more natural, or pressing, than others. To take the geopolitical as an example, constant reference out from doctrine to geopolitics risks fostering a simplistic realism. A deformalized view of law, seeing law through the lens of great power policies, was a feature of a particular moment of US hegemony, and approaches to teaching in this style were shaped profoundly by this outlook (Koskenniemi 2002, 478–479; Jones and O'Donoghue 2022, 74–5). The politics of deferring or not to shifting threats and technologies in interpreting legal obligations still play out constantly, for example in interpretation of the law on use of force. How and to what extent international law can stand clear of underlying relations of power (whether expressed militarily, economically, culturally or in other ways) is a recurring seam of theoretical argument, probably best understood as a live question rather than a foundational assumption of any teaching approach. To keep this question alive we have to teach in a way which *both* sees international law as emerging from particular milieus, worldviews and material structures, and perhaps irretrievably limited by these; *and* as having some kind of internal vitality and systematicity which makes it at least contingently capable of challenging the status quo. If revision of international law curricula cannot itself advance substantive transformation of the law, including its 'decolonization' (al Attar and Abdelkarim 2021), teaching can at least bring the contours and challenges of such projects into view.

How is all this to be achieved in an undergraduate survey? We here return to teaching itself as a context, and to some significant constraints, at least in the UK legal academy. Although we may ultimately see a reconfiguration of undergraduate study away from jurisdictional specificity and towards a recognition

of the interrelation of international and domestic law, international law is now often an optional module, taken later in the degree. In domestic areas of law the fundamentals of the legal system, sources of law, and court system are all established background knowledge. In public international law, in the same number of weeks, one has to introduce the workings of a whole new legal system—its sources and modes of interpretation, actors and institutions, avenues for dispute resolution, structural pillars like jurisdiction and state responsibility—before one even gets to the substance of what international law permits, requires or prohibits. Taking account also of institutional constraints, like the need to apportion teaching by expertise, this often produces a broad, topical syllabus, offering an overview of international law as a system (but not always connecting this back to earlier jurisprudential study).

Pressures on teaching time can make it tempting to accept, from the basic curricular structure, the (chronologically quite recent) difference between 'public' and 'private' international law (private international law will often feature in a module of its own: see Banu 2022). This has the effect of separating off from public international law the full range of consequences of the way international law divides jurisdiction and manages plurality of laws and adjudicative fora, for both individuals' private lives and the workings of a global economy. This same pressure can also cabin thinking about the interaction between domestic and international law. One's view of this interaction of course depends on one's theory of law. International law and domestic law set the terms on which each engages with the other, but this is not so much an interaction between static systems as much as a mutual influence of one on the other (captured in work on the 'double-facing constitution'), and one which can evolve over time (Bomhoff, Dyzenhaus and Poole 2020). The terms of this interaction distribute power and agency differently as between organs of state and levels of government, structure interstate negotiations in different ways, and shape the capacity of individuals to challenge or be

recompensed for governmental action abroad. Time pressures and standard textbook chapters risk compressing these structural dimensions of the domestic–international relation into narrower questions about, for example, the effects of a treaty in domestic law. One alternative to a sharp distinction between international and domestic, public and private, is to embrace a deliberately expansive 'transnational law' or '[global] governance' perspective, which decentres such distinctions—but teaching this meaningfully does also require articulating which distinctions operate alongside or within these more holistic visions.

How, then, to make constraints of time and teaching expertise productive; recover the sense of contexts in which international law emerges and operates without losing its distinctiveness as an intellectual system; speak to students' desire for critique but also hope? The following are some possible, mutually reinforcing avenues with which I have experimented at various times—and which shaped my sense of the possibilities to explore in moving into a specialist LLM module.

One obvious impulse has been to historicize. In many areas of law, teaching features at least some kind of 'law and society'-inflected historical lens, though this is often disconnected from legal history as a specific field—a bifurcation which might warrant further scrutiny (Sandberg 2021, ch 2). In international law, an orientation to history involves asking how a fairly thin account of normative ordering among European polities was expanded outwards, principally through imperial expansion; and consolidated, thickened and putatively universalized to the interstate order, and international / domestic divides, we see today. Introducing a chronology at least prompts students to see the fundamental political structures of international law as created rather than given, allows them to situate particular cases and controversies in broader developments, and make better sense of the existing legal order.

However, there is a risk that historical contextualization—whether at the start of the module or in its midst—simplifies in its own way (Jones and O'Donoghue 2022). A historical survey presents time scales of various kinds: a hazy timeline back to the 16th century (possibly), getting more elongated and detailed in 19th and 20th centuries, with a question mark over future developments. Precisely because one is trying to give context for why we have the apparatus we do, there is a temptation to periodize by institutions or wars in which Europe has been heavily and directly implicated. This gives a deeply skewed picture of global history. It is common, for example, to see the period from 1945 to the present as one of relative peace—Cold but not hot war—but outside Europe, and in part due to proxy wars, it was notably violent; and a close focus on empire and postcolonial relations might draw attention away from relations between southern and postcolonial polities, despite the considerable importance of these relations for reshaping the UN. Periodization is often intertwined with deeply entrenched scripts about secularism and modernity, such that historicization can, in a perverse way, suggest the naturalness of the state of affairs which emerges as the status quo. A potted history that doesn't question its own foundations can be simply another 'view from nowhere', rather than a challenge to any such view.

Another avenue has been to teach complexity from within the law: to open up the historical and jurisprudential landscape from inside foundational doctrines. In international law, it is common to teach by presenting the 'orthodox', 'traditional', 'canonical' account of something (sources, customary international law, statehood), and then pointing out what this account misses. It is interesting to go one step further and ask what is enabled by this bifurcation between a ritualized statement of the law, which is widely recognized to be incomplete; and an expansive set of exceptions or nuances, which often escape critical scrutiny because presented as the 'real world' corrective. In the area of sources, for example, virtually all teaching will begin from art 38(1) ICJ Statute, which descends from an earlier

iteration in the Statute of the Permanent Court of International Justice, that was never intended as a statement of sources of international law as such. Students can grasp relatively easily what the traditional account of sources reflects about the evolution of international law, and the power dynamics it leaves open. They see, for example, that in treaty negotiations, larger and better-resourced states have more to trade, more influence to wield, more expertise to hand and thus *grosso modo* a greater say in the ultimate form of treaty commitments. They can also see for themselves in the secondary literature which states have the capacity to collate and disseminate their 'practice' for the purposes of ascertaining customary international law, and whose practice tends to feature more often in discussions. This is a classic instance of formally neutral rules in fact favouring some states over others and operating through institutionalized mechanisms which do likewise. But addressing what might be 'missing' from the art 38(1) ICJ Statute list, and particularly the role of international organizations, moves rapidly into more complex terrain. Thinking about whether and how international organizations 'make' law brings us to questions about how broadly to open the aperture of international law; and how to understand the inner workings of institutions. We here glimpse the historical contingency of state consent as a touchstone, and how much turns, in particular questions, on the way in which we approach the ascertainment of what the law is.

One avenue which follows from this is to centre attention on legal technique and—relatedly—legal innovation. Much law-making emerges from specific events or disputes, subsequently enlisted into narratives. Judgments and arbitral awards make subtle moves from a particular scenario to a legal analysis that may later be taken by some actors—despite the formal absence of binding force—to be generally applicable. The routine work of bodies like the International Law Commission involves both codification and 'progressive development', and is premised on the notion the two can be distinguished.

We might pull these processes themselves to the fore: try to give students the sense of what it is *like* to interpret a treaty, to sort through the morass of acts and pronouncements which might give rise to a customary norm, to differentiate between 'soft law' and real law, *lex ferenda* and *lex lata*. These skills are critical to the workings of law but (much like statutory interpretation or legal drafting) often scanted in the undergraduate curriculum, or stylized into simplistic hypotheticals when the whole challenge in real life is navigating profusion and complexity. Focusing on the texture of legal reasoning gives a different view on sources and modalities of lawmaking (to return to the earlier discussion), but it also orients students to understanding international law as a process of (sometimes radical) innovation. This connects to the interplay of cynicism and hope which students often bring to the subject: it orients them to how others, and they, can 'do things' with law (to pick up the stress on active engagement raised also in Kirkby 2022).

The foregoing are all compatible with retaining the structure of a topical survey. They might be supplemented by cutting more radically into the material, alternating scale and vantage point. One 'contextual' possibility might be to narrow the array of topics (to the extent this is possible), but systematically inject multiple different perspectives into the discussion (whether of states, normative orientations, critical interlocutors, or actors who use international law, from claimants before human rights tribunals to corporate counsel and foreign ministry legal advisers). Another loosely 'contextual' inspiration might be to start *in* a context, in *medias res*: shift teaching, at least in part, from a 'topic'-based structure to one grounded in a concrete place, scenario, or case. It might be possible to take a single case, or handful of cases, as the spine of a whole course. The *Nicaragua* case, for example, emerges from the Cold War enmeshing of the US in Latin America and touches on the interaction of north–south power politics and law, questions of sources, use of force, state responsibility, jurisdiction of the

International Court of Justice, evidence in international proceedings, and reparations. *Tehran Hostages*, another Cold War case, could be coupled with *Anglo-Iranian Oil* in a series of cases on Anglo-American dealings in the Middle East, spanning colonial and postcolonial periods, bearing again on jurisdiction of the Court, intelligence and covert action, diplomatic relations, and the geopolitics of hydrocarbons. One can imagine choosing cases connected to the place of teaching; for London, self-identified as a 'global' city that somehow floats free of particulars, and drawing students from all over the world, this might involve connecting back to globalized world-making through things like investment flows, shipping law, and corporate headquartering arrangements, or remnants of imperial arrangements like treatment of the Chagos archipelago. Immersion in the specificity of these cases would convey much about the interrelation of state and corporate actors and the changing dynamics of international law-making and adjudication over time. It would unsettle the sense of law as produced in a placeless universal register and allow closer engagement with the texture of legal reasoning. But it has limits of its own. There is a danger in focusing on spectacular cases rather than quotidian workings of the legal order, especially given the unevenness of states' engagement in litigation. And it leaves unresolved the place from which one is teaching the context(s), however one defines them.

IV. Contexts of interdisciplinarity

Moving from an undergraduate survey to a Masters-level course seems at first to offer a way of transcending the limits of the undergraduate survey. LLM students already know the basic pillars of international law, and specialization in a particular sub-field allows them to ask more probing questions about why and how norms in the given area have developed as they have, and how they connect to a

broader system; as well as to analyze more critically the processes of interpretation and reasoning running through them.

Teaching from an explicitly interdisciplinary or extra-disciplinary vantage point promises another layer of contextualization, and at least a defined disciplinary touchstone from which one is sketching possible context(s). History has, in recent years, been particularly generative in shifting the way we think about international law (and it is striking how central history, or at least a loosely historical perspective, has been to the teaching practice explored in other papers in this symposium). In international law, history illuminates how consolidation of the modern state system has been intertwined with imperialism and with property and commerce, and poses questions about the very existence of a continuous tradition of international law spanning the centuries. History offers helpful traction on the very categories into which students' studies will have been organized (public vs private, international vs constitutional), and key concepts (state, war, peace, trade). It also offers a foil to the sorts of historical claims which are woven into legal doctrine at various levels, and which are a fundamental aspect of legal argument. Such claims manifest, for example, in presentation of acts and statements in concrete historical circumstances as evidence of state practice and *opinio juris* sufficient to establish the existence of a customary norm. At a higher level, they are present in efforts to integrate individual episodes into larger narratives. Is Russia's invasion of Ukraine, for example, to be understood through the prism of Cold War antagonism and Western overreach; or is it better seen as an aggressive resurgence of imperial ambition? How much are these perspectives views from Washington DC, or London, rather than from Kiev or the Baltic capitals?

Every other discipline, though, will have a have a dynamism of its own, with jostling subfields; arguments about sources, concepts, narratives and truth; and epistemic challenges. The superposition

of another discipline on international law (whether history, anthropology, sociology, or something else) cannot be a neutral lens through which to examine international law. Bringing disciplines together will, and should, put each other in question. In the case of history, this 'putting each other in question' has happened most recently in a series of exchanges over history and international law (e.g. Orford 2021; Benton 2019), in which one particular variant of history (incidentally, 'contextualist' intellectual history) has loomed large, and sometimes stood in for the whole.[4] This intellectual history / international law debate has a range and intricacy which I cannot map here. Nevertheless, it shapes my thinking in three particular ways. First, as a reminder that law has distinctive modes of reasoning, forms of knowledge production and transmission from time to time, with which any history has to grapple—and which we would want LLM students to explore. Second, that the identity of 'international law' or *the* law at any particular moment is contested within law itself, so historical accounts premised on particular understandings of the field or the law are necessarily taking positions in jurisprudential debates—and conversely, the view we have of what law is will shape the practices and phenomena on which we focus in crafting an historical account. Third, that there are large and open questions about what it is to make claims about the past *as a lawyer* (Donaldson 2022).

In what follows, I sketch my thought process in designing a new LLM module on Histories of International Law. For the moment, the module remains suspended in a register of possibility. COVID-19 impacts on workload (teaching as context again …) mean that the module envisaged has not yet been taught—and when it is taught, it may evolve markedly as students engage with it.

[4] 'Contextualist' here means a narrower set of commitments to reading texts as speech acts in their particular linguistic context. For an explication of these commitments and their implications, see Brett 2021, 23–34.

My intention in designing the module was not to teach the, or even a, comprehensive history of international law, so much as to sharpen students' awareness of how their approach to formulating questions, examining sources and developing narratives might vary depending on whether they were reading within, or beyond, the framework of what contemporary law suggests is relevant; as well as the range of possibilities open within law. This meant I need not be heavily invested in a particular account of what history is or should be. The hope was rather to help students develop a more fine-grained and critical sense of how they worked with law, whether they wished to continue in academic study or go on to practitioner, policy or governmental roles. The specific knowledge of particular episodes was unlikely to be relevant to their work, but something of the uncertainty, and potential, of the textures of reasoning, might remain with them, and bring a disposition to question established narratives, and a disciplined creativity in fashioning alternatives.

To turn back for a moment to the immediate context of teaching, I was designing a module that would speak to students taking an array of specialist international law modules (meaning I would ideally focus pre-1945 to avoid overlap with these), and also to the smaller number of students who study legal history. Another colleague offers a course on 'Decolonizing Law', which draws more directly on postcolonial theory and looks squarely at controversies over justice in the present for events of the past, from reparations to memorialization;[5] my module was designed to complement this with a more holistic examination of legal developments, including those relatively uncontested today, and a greater

[5] UCL Laws, 'Decolonizing Law' syllabus, https://www.ucl.ac.uk/laws/study/llm-master-laws/modules-2019-20/decolonizing-law-laws0224; and public lecture series: https://www.ucl.ac.uk/laws/events/decolonising-law#:~:text=An%20interdisciplinary%20series%20of%20public,%2D%2Fanti%2D%2Fpost%2Dcolonialism.&text=These%20lectures%20will%20take%20place,possibility%20of%20live%20attendance%20globally.

focus on how we conceptualize law and legal reasoning. At least at the outset, my module was intended for LLM students only (inter alia because the module credit system is not comparable across faculties: institutional contexts of teaching strike again). LLM students taking the module might have some historical training, but this would not be necessary.

I wanted to find a balance between sketching the key frameworks, traditions and chronologies within which much history of international law is written, and then trying to cut into these in ways that gave students a first-hand encounter with primary sources (and a chance to think about what count as such sources). I opted for a thematic focus, rather than an attempt to be comprehensive, to allow for greater exploration of one topic or central concern from a variety of angles and periods, and to help orient thinking about change over time. That meant I needed themes loose and broad enough that the thematic structure would have an inner logic, corresponding to continuities in thinking, vocabulary and practice, rather than being an artificial constant.

Initially I had been drawn to war as a potential theme. The opposition between peace and war is woven into the ethos, concepts, and doctrinal lineages of public international law. A focus on war would complement specialist modules on contemporary Use of Force and International Humanitarian Law. Students would also already come to this theme with a sense of the entanglement of law and history because questions about the essentially historical inquiry underpinning ascertainment of customary norms, and the enduring relevance of these norms in the era of the UN Charter, are part of the basic workings of the law on use of force.

On reflection, though, I was drawn to experiment with pulling peace, rather than war, to the fore. Both peace and war have a complex relationship with law. They have at various times been seen as external to law, either required for it or a negation of it, respectively; at other times law's role in constructing

both is evident. This role remains somewhat contradictory in the assumptions we retain today: if 'peaceful settlement of disputes' is a key task of law, it is of interest that law itself is agnostic as between modalities of settlement; negotiation and mediation (which are often largely secret, and privilege diplomatic face-saving and practical resolution over conceptual clarity) are as valid as adjudication (typically public in part, and oriented to at least some clarification of the issues in dispute as questions of—potentially general—principle). Law can offer constructive ambiguity, defer resolution by shifting focus to process; but it can also insist on the sharp delineation of rights and responsibilities, in ways which posit well-known tensions, for example, between 'peace' and 'justice' in the wake of atrocity. Although peace tends to fade into the background as the status quo, or default condition, with war figuring as the more dynamic and generative phenomenon, peace is in some ways more complex as a concept and ideal, encompassing everything from an absence of force to a highly coercive, but superficially tranquil, order.[6] And, precisely because peace-making does require some positive engagement from all parties, it is perhaps a better way into thinking about the outer bounds of the dominant legal order over time, and what happens in peace-making processes which have to deal with others outside the dominant legal order.

There is no periodization intrinsic to the focus on peace and peace-making, but the reaches of my own expertise suggested a starting point in the eighteenth century. Starting more or less arbitrarily at this point rather than another avoids being invested in any account of the 'origins' of international law or of particular ideas about peace: this would clearly be a frayed edge, with students able to see how the eighteenth-century law of nations reached back to Roman law as well as to more contemporaneous

[6] For an argument that treating peace as a timeless concept, and an unqualified good, has obfuscated our understandings of this, see Hippler and Vec 2015.

treaties and juridical texts. Cutting into the chronology in this way might give a critical vantage point on the macro-historical and rhetorical emplotments which underpin so much of the origin stories, and periodization, of international law (Simpson 2021, 128–36).

Loosely, then, the module would be concerned with peace in the law of nations and international law: how understandings of peace, and the roles of law in securing it, have changed over time. This would leave open a wide range of episodes to explore. We might start, for example, with sessions giving a cross-section of peace-making around the end of the Seven Years' War—not only between European powers, but with indigenous peoples in North America, situating both in the general expansion of empire, but exploring the array of peace-making practices within and beyond Europe. This would open up contemporary thinking about peace and the *droit public de l'Europe*, including connections between peace, commerce and balance of power, but juxtapose this with more ethnohistorical and indigenous histories of encounter, and pose questions about the extent to which dealings within and beyond were in subsequent centuries, or should be now, conceptualized as part of the same juridical universe (Donaldson 2021 and works there discussed).

There would be a wealth of opportunities to trace the way in which particular terms, concepts or practices are taken up in legal discourse and reworked over time. Seminars on the roughly contemporaneous aftermaths of the French Revolution and collapse of Spanish empire in Latin America might take up not only the Congress of Vienna apparatus (institutionally generative as a moment of multilateral treaty-making, (minimal) institutionalization of cooperation for maintenance of peace, and consolidation of diplomatic precedence) but the imagination of distinctive legal ordering between Bolivarian republics, and the emergence of *uti possidetis juris* as a crude instrument for averting conflict

(an episode consecrated later as the foundation for invocation of the same principle in post-WWII decolonization).

Ideally, we would avoid focusing on peace treaties and settlements alone, and look instead at the larger range of peace projects with which they coexisted. We might thus re-examine the Versailles settlement not as a definitive peace but as the start of a process of experimentation with instruments for peace, everything from management of ethnic minorities to formal prohibition of war, conceptions of disarmament (including thinking about the role of the arms industry within states), and the development of economic sanctions as a threat to avert war. We might explore regional peaces, and peaces between Third World states, as well as those involving a major power.

We would assume plural understandings of peace and track their evolution with other aspects of the international order. In the nuclear era, for example, we could range deliberately over Western–Soviet differences, and the roles of Third World leaders in carving out specific doctrines of non-alignment, together with their challenges to the definition of aggression, and disputes over the relevance of coercion of various kinds to the validity of treaties.

There remain intriguing questions about complexities of peace-making today, not squarely considered in International Humanitarian Law or Use of Force modules: the range of rights and concerns (democracy, control of resources) in play, and the profusion of legal frames (contract, treaty) for settling conflicts within states. We might thus close the module through critical engagement with ideas of a *lex pacificatoria* or *jus post bellum* which have attained some prominence in international law today.

Each of these episodes could be approached through rich materials, combining 'primary' sources (i.e., materials produced by the actors whose history we are studying) and secondary scholarship. Primary sources could include everything from material traces of different kinds; to the works of literature so

richly intertwined with early modern diplomacy; records of peace-making ceremonies; oral histories; writings of jurists, diplomats and agents; journals and press articles; collections of peace treaties and agreements (including for the recent past the UN Peacemaker and Language of Peace databases); and proceedings of litigation and arbitration. We might collectively discuss how to read and interpret these: what do they capture and obscure? How do narratives in law or history make use of metaphor (Del Mar 2017) or analogy (Bordin 2018) in texts themselves or in linking texts and moments together? How do our readings differ if we read beyond lawyers' preconceived sense of what is legally relevant, and how might we make richer arguments as lawyers about what *is* legally relevant?

The move from the module as sketched here to what is said in a particular room, on particular days, with particular students, will be a leap into open space. Nevertheless, my sense of that space has shifted in the process of design: not so much an emptiness but a web of particular contexts in which we all read and write.

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