

# War and International Order: The Old and the New

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2021-05-31T14:00:07

Lothar Brock and Hendrik Simon's edited book on *The Justification of War and International Order* (2021) is a rich volume that brings together scholars from across international law, political theory, history, and international relations. The book's central tenet is that, unlike what realists of all stripes would supposedly claim, the way in which states and other political actors justify going to war matters. More specifically, the editors seek to demonstrate the "discursive co-constitutionalization of the justification of war and international order" (p. 4).

This is quite a mouthful, and "co-constitution," rather than co-constitutionalization, is perhaps the more common term here. But what they mean, essentially, is that the behavior of international actors is shaped by the norms of the international order and vice versa.

This volume is ambitious in many respects. Instead of focusing on "war" as limited to inter-state conflict, it considers justifications for the use of force ranging from "measures short of war" and "imperial policing" to "coercion" and "humanitarian intervention". Rather than confining itself to justifications in continental Europe or in the "West" more broadly, it includes both considerations about imperial contexts and a separate part on "non-Western" justifications of war. Instead of exclusively examining theoretical discourses about the justification of war, it includes detailed analyses of how war was justified in political practice. Although the editors could have made more of these innovative foci—a point to which I will return—their choices still make for an insightful collection that will undoubtedly prove a useful resource for those working on the relationship between war and international order.

## **Against Realism? Norms, International Order, And The Shadow of Carl Schmitt**

Pulling together various elements from the twenty-six individual contributions—an impressive collection indeed—the editors leave us with two main takeaway points. The first and most obvious is that realists are wrong in dismissing justifications for war as empty propaganda with no actual traction on international relations. The editors claim—though I disagree—that this is the single most powerful contribution of the book: "our fundamental thesis is that in their justifications of war, states and other political actors refer to (existing or presumed) norms of the international order to depict their own violence as legitimate, that is 'appropriate behaviour.' [...] As norms of the international order shape the justification practices of states, the practice of justification in specific cases shapes the general normative order." (p. 4) Put simply, norms matter. I will come back to this below.

The second, and to my mind, much more intriguing claim, is that justifications for war have always been considered necessary, even during the periods often assumed

to have dispensed with the convention. The volume powerfully undermines the widespread narrative according to which “early modernity witnessed a transformation of the discourse on war and international law which was consolidated in the nineteenth century and which allowed states to wage war without reference to any normative justifications” (p. 505).

As the editors note in their [introduction](#), this narrative is of course directly inherited from Carl Schmitt, who refers to this transformation as the emergence of a “non-discriminatory concept of war” (*nicht-diskriminierender Kriegsbegriff*). Within this conceptualization of war’s role in the international order, what mattered was no longer whether a belligerent had a just cause (the “discriminatory concept of war”) but whether it had the right authority, i.e. (according to Schmitt) whether or not it was a sovereign state. In Schmitt’s narrative, this concept first emerges in Alberico Gentili’s famous 1598 treatise on the laws of war and, at a stroke, transforms medieval international law into its modern incarnation. In Schmitt’s own words in *The Nomos of the Earth* (1950, English translation 2003), “[i]t was Gentili who succeeded in creating a new concept of war based on the sovereign state.” For Schmitt, then, the period from roughly 1648 to 1914 was a golden era of restrained warfare (“war in form”), during which justifications for going to war (a “just cause”) no longer mattered. All that was required for war to be legitimate was for the actor using force to be a sovereign state, and sovereign states at war would treat each other respectfully, as equal peers with a disagreement rather than as judges punishing evildoers. Schmitt considers that this quintessentially “modern” understanding of war was severely undermined in the twentieth century by an Anglo-American liberal crusade that brought back a moralistic slant to warfare and revived the unchained violence of the medieval “just war” approach.

There is much to say about the many ways in which Schmitt’s enormously influential narrative is historically erroneous, and this volume contributes an important element to its takedown. In view of the fascinating contribution of AnuschkaTischer on the early modern period, together with those of Hendrik Simon, Lauren Benton, and Isabel Hull on the nineteenth century, the assumption that, starting in the early modern period, politicians stopped needing to justify their decision to use force and that this necessity has only returned in the twentieth century becomes entirely untenable.

Much is at stake in overturning this conventional narrative, and I am predisposed to be highly sympathetic to the endeavor. If anything, though, the editors undersell its importance.

### **An Odd Choice of Interlocutors?**

Part of the problem, I believe, is that while the editors do bring some scholars of the history of international relations into the conversation, both in their references and as contributors to the volume, this engagement remains quite thin, in spite of the significant overlap between what the volume is trying to achieve and what a large group of scholars working on the history of the international order seek to do as well.

First, the editors tell us that the aim of the book is “to highlight the fragility *and* the persistence of shared normative orientations in the struggle for international order” (p. 17). Amongst scholars interested in international order, this is hardly a disputed claim. There is no doubt that framing the volume’s overarching historical narrative as a pushback against Schmitt’s realist account is a powerful move. But the power of the move does not come from its debunking of some realist idea that norms do not matter in international politics. It comes from the book’s highlighting of the profound flaws of Schmitt’s historical account. Schmitt’s story of an epochal shift from a hyper-violent medieval international order to a more peaceful modern one based on a new concept of war remains remarkably mainstream, and as such, exposing its incoherencies can help move the conversation forward a great deal.

By contrast, the argument against realism as such is not particularly innovative. The idea that norms matter in international politics, and that both realists and rationalist-institutionalists—the other theoretical approach mentioned in the introduction (p. 5)—do not have the analytical tools to grapple with the significance of norms, was the starting point of constructivism in the 1990s. As early as 1997, scholars could claim in leading IR journals that “the once controversial statement that norms matter is accepted by the most diehard neorealists.” Whether or not every single realist scholar would agree with this statement, the importance of norms has been acknowledged across most of the literature for more than twenty years now, including in the realm of war (see for instance the classic works of [Richard Price](#) and [Nina Tannenwald](#), which go surprisingly unmentioned here). While the editors do mention constructivism, this is only in their concluding chapter, in what reads like a slightly puzzling “aha!” moment (p. 504). Yet, not only is the realist/constructivist disagreement on the analytical relevance of norms a bit of a dated trope, there is now a much wider and much more detailed historical literature on the role of various norms in the evolution of the international order that would have seemed to provide the editors with several compelling candidates for engagement.

More interestingly, the editors suggest that this book’s genealogical approach raises questions about historical change and continuity, and notably—with a critical eye on Hathaway and Shapiro’s [The Internationalists: How a Radical Plan to Outlaw War Remade the World](#)—about the shift from an “old” to a “new” international order (p. 17). Specifically, the editors ask two broad questions. First, can we identify any major breaks, any critical junctures in the practice of justifying the use of force, on the basis of which one could speak of a significant change in the nature of the international order? Or are we continuously asking the same questions, riding—in the editors’ words—“a merry-go-around of history where reiteration clearly outruns innovation?” (p. 24). Second, and relatedly, how can we understand the current trajectory of the international order? Where are we going?

On both counts, these are the quintessential questions asked by scholars working on the history of the international order, whether they are most indebted to—amongst others—intellectual history, conceptual history, or international historical sociology. These were also the central questions asked by IR’s English School over 50 years ago. In fact, the editors cite Hedley Bull at the very start of their introduction in support of a claim that is remarkably similar to their central argument: “discourses

on the use of force construct ‘international order’ as a normative frame of reference for politics and theory alike” (p. 4). Why not use this as a starting point, then, and connect this specific project on justifications for war and international order more explicitly to the sizable literature on the historical trajectory of the international order that has developed across various academic fields since the early 2000s?

The concluding chapter is a courageous attempt to synthesize all twenty-six contributions into a single, lengthy, and complex meta-account of the justification of war as it relates to the formation of international order, but despite its impressive span, one is left with the sense of a jigsaw puzzle with half of the pieces left out. How does this idiosyncratic account relate to other recent narratives about the [changing character of war](#) or—even more directly—the [relationship](#) between war and international order? More broadly, it is clear that the regulation of violence in the international system forms one of the key pillars of any international order, but it is not the only one. How, then, does it relate to the others? For instance, how does this narrative stand vis-à-vis works on the changing character of diplomacy, on shifting conceptions of territoriality, or on the evolution of the great power system?

There are, of course, limits to what an edited volume can cover. But had the editors connected their project more actively to the vibrant debates happening around the changing nature of the international order over time, their account could have landed further away from the crumbling orthodoxies they are seeking to challenge. Yes, it successfully undermines part of Schmitt’s narrative, and that is already a significant contribution. However, it still tells a story that unfolds primarily from the nineteenth century onward, primarily between states, and primarily from the point of view of Europe and the “West.”

### **“Non-Western Perspectives” As An Afterthought?**

The global early modern world is currently the crux of countless debates about how to evaluate more accurately the changing shape of the international order. Yet only four of the volume’s twenty-six contributions pertain to the world before 1800. Geographically, although some discrete chapters touch on the world of European empires and thus on colonial encounters beyond the confines of the geographical West, much of the more globally-oriented material in the volume is in a separate Part VI on “non-Western perspectives” whose three chapters feel more like an afterthought than an integral part of the editors’ project. There is potentially a whole different history to be written here, one in which the global early modern world plays a much larger role and in which many of the actors justifying their use of force were neither states nor Europeans.

Perhaps the one-sidedness of the examination here comes from the loose use of “international order” throughout the book’s framing. Is this “international order” meant as a synonym for international stability, is it, much more broadly *the*(global) international order, or is it an implicitly European “international order” that co-existed with other regional international orders and eventually expanded to the rest of the world, à la [Bull & Watson](#)? The editors briefly note that there is no commonly shared definition of “international order” (p. 13), but that does not tell us much about where they are coming from analytically.

Finally, in a work about the relationship between justifications for war and international order, it is a bit surprising not to see any engagement with the recent literature on the debates surrounding the 1977 Additional Protocols to the Geneva Conventions, where the question of the legitimate use of force and the explicit language of “just war” came very much [front and center](#) in the context of national liberal movements, as Jessica Whyte’s [widely discussed](#) work has recently shown. Third World activism at the United Nations in the 1970s was a particularly ambitious attempt to reset the rules of the global international order, and between decolonization and the proposal for a New International Economic Order, it is no surprise that the Third World coalition also sought to reform the discourse around the legitimate use of force. Since the current volume proposes various reflections on international law’s relationship to empire, it would have been beneficial to engage with this historic moment in the regulation of warfare, when a progressive vision anchored in the realities of decolonization emerged as a challenge to the legal norms of the colonial past.

That said, this book remains an important step away from stale Schmittian accounts of the relationship between war and international order, and thus a valuable resource for all those working on the topic. If anything, there simply remains much more to be explored.

