


EDITORIAL

INTERNATIONAL LEGAL THEORY: SYMPOSIUM ON
INTERNATIONAL THOUGHT AND THE MAKING OF THE CANON

Canon-making in the history of international legal and political thought

Paolo Amorosa¹  and Claire Vergerio^{2*}

¹University of Helsinki, Faculty of Law, Yliopistonkatu 3, 00014 Helsinki, Finland and ²Leiden University, Institute of Political Science, Turfmarkt 99, 2511 DP The Hague, The Netherlands
Emails: paolo.amorosa@helsinki.fi, c.vergerio@fsw.leidenuniv.nl

Francisco de Vitoria, Hugo Grotius, Samuel Pufendorf, Emer de Vattel, Thucydides, Niccolò Machiavelli, Thomas Hobbes, Immanuel Kant: ‘great thinkers’ are ubiquitous across the disciplines of International Relations (IR) and International Law (IL). One finds them, naturally, in the works of scholars with a historical sensibility – a growing tribe since the surge of interest in the histories of international law and international relations – but also across a plethora of non-historical works, where they serve various purposes, from establishing the credentials of a particular worldview to typologizing different approaches to the same problem. At the same time, these canons have now been widely criticized as incredibly narrow collections established by Western men who wished to glorify their own kind and impose this warped sense of intellectual lineage onto the rest of the world. With the development of postcolonial and decolonial approaches in IR and IL – but also across history and literary studies – canons can no longer be painted as mere paragons of intellectual achievement. They also have to be acknowledged as tools of cultural imperialism that obfuscate and erase as much as they reveal.

Yet, in spite of this valid criticism, in each discipline the canon – or if not *a* canon then perhaps a collection of parallel canons – in some shape or form, seems here to stay.¹ In other words, canons are both uncomfortable and indispensable to the disciplines of IR and IL. There are many reasons for their resilience across the board, but a particularly central one in IR and IL seems to be their ability to hold fragmented academic fields together, both by creating a shared core and by establishing certain disciplinary boundaries that can then be policed. More and more, the tendency is towards broadening canons and making them more inclusive rather than obliterating them entirely. In this context, how can we engage with canons in a way that does justice both to the prominent role they have played and are likely to continue playing across IR and IL, and to their inevitable propensity to impose certain narratives over others through exclusion and silencing?

This symposium seeks to help answer this question by putting forward two broad themes. First, we wish to analyse canons as sites of contestation. Beyond the monolithic myth of a single,

*The authors would like to thank the Centre of Excellence in Law, Identity and the European Narratives at the University of Helsinki (Academy of Finland funding decision no. 312154) as well as the Dutch NWO (Veni Grant VI. Veni.191R.049) for their organizational and funding support.

¹Although it can be argued quite compellingly that we would be better off without canons entirely, especially since intellectual legacy can be preserved in myriad other ways. For an argument in this vein see H. Y. Kang, ‘Is There (Should There Be) a Law and Humanities Canon?’, (2019) 16 *Law, Culture, and the Humanities* 1.

dominant, well-defined ‘Western canon’, we draw on literary studies to emphasize their contested, productive, and fluid nature. While canons and the legacy of canonical authors have often served as uncritically transmitted tools of repression, they also have been and continue to be sites of contestation and negotiation of common values. This literary perspective is fundamental to offer a more nuanced understanding of how and why our canons came to be. Beyond the standard critiques of exclusion and cultural imperialism – which are valid in their own rights – we propose teasing out the processes through which canons are instrumentalized by a wide range of actors, sometimes with radically different goals in mind. We are interested in the way figures can be reinvented over time, in the shifting form that their canonization can take, in cases of belated canonization, of downright non-canonization, or even of revoked canonization. At the more granular level, we aim to emphasize the personal, institutional, social, and political dynamics that underpin the posthumous trajectory of various figures, and what these dynamics tell us about the goals, priorities, and worldviews that moved the canonizers in any given time and place.

Second, we suggest that what is most vividly at stake in those sites of contestation is our understanding of historical time. Indeed, canons are perhaps at their most powerful in their ability to shape our understanding of the histories of international law and international relations. They bear important political consequences through their capacity to, for instance, enshrine narratives of progress or to depict international law and politics as based on timeless principles. But beyond shaping our understanding of history in terms of its general trajectory, canons also impact the way we conceptualize our own relationship to the past. They undermine our tendency to think of history through a linear frame and, in doing so, they require us to complexify our understanding of temporality. In the simplest sense, processes of canonization multiply the contexts in which a given author will appear, and the most consequential context for an author’s ideas – the context in which these ideas came to have the greatest impact – may not be the context in which they were written. An author may end up being most celebrated centuries after her death, when her ideas are creatively reinterpreted to suit a world she could not have foreseen. A story might then emerge of her exceptional prescience, and with time, this mythical understanding of her contribution may become central to furthering agendas of all sorts.

In IR, but even more in IL, the sudden centrality of such myths – their construction, their diffusion, and crucially, their concrete impact on legal practice and its underlying politics – has triggered profound disagreements amongst leading scholars in the field over the respective functions of context and anachronism in the writing of history.² While this symposium does not seek to speak directly to this debate, it grapples with many of its themes, shedding particular light on the process through which the canon is endlessly (re)constructed, with its architects oscillating unevenly between a genuine search for historical truth and a more or less consciously instrumental position towards the uses of the past.

This symposium seeks to speak to scholars of IL and IR, of course, but also to intellectual historians. Recent years have witnessed the spectacular expansion of a sub-field that once existed only at the margins of intellectual history: international political thought,³ which, with the turn to global intellectual history,⁴ quickly morphed into global political thought. Within this expansion, international ‘political’ thought has often come to encompass legal thought as well; sometimes

²See especially A. Orford, ‘On International Legal Method’, (2013) 1 *London Review of International Law* 166; M. Koskenniemi, ‘Vitoria and Us’, (2014) 22 *Rechtsgeschichte-Legal History* 119; A. Fitzmaurice, ‘Context in the History of International Law’, (2018) 20 *Journal of the History of International Law* 5; L. Benton, ‘Beyond Anachronism: Histories of International Law and Global Legal Politics’, (2019) 21 *Journal of the History of International Law* 7. For a reconstruction of the debate and a move beyond it, sharing our interest in temporality see N. Wheatley, ‘Law and the Time of Angels: International Law’s Method Wars and the Affective Life of Disciplines’, (2021) 60 *History and Theory* 311.

³For an early survey see E. Keene, *International Political Thought: A Historical Introduction* (2005).

⁴See notably S. Moyn and A. Sartori, *Global Intellectual History* (2013).

scholars have simply referred to ‘international thought’ as a whole.⁵ Conversely, those compiling volumes on ‘international legal thought’ have made it a point to discuss the works of quintessentially ‘political’ thinkers, such as Machiavelli, Bodin, Hobbes, and Rousseau.⁶ As such, the previous divides between canons in IR, IL, and in the history of political thought are starting to blur entirely, and while some significant efforts are being made to expand and diversify these canons,⁷ there is still a risk for them to merge into an ever longer list of European men. We thus think there is no better time to historicize the making of these canons in conjunction,⁸ and through doing so, to provincialize them as outgrowths of contingent processes. For once we engage with the modalities through which the ‘greats’ became considered as such, it becomes clear that, more often than not, their remarkable posterity has more to do with chance than with the incontrovertible power of their crystal-clear ideas.

In what follows, we begin by outlining the purposes of canons – especially the canons of IL and IR – in some further detail. We then develop the two core themes behind this symposium: understanding canons as sites of contestation and examining their relationship to the conceptualization of historical time, before briefly introducing the contributions to the symposium.

1. On the purposes of canons

Canons serve multiple purposes, and we are obviously not the first ones to say so. Scholars in the discipline of literary studies, in particular, have vigorously theorized the concept of the canon, and we will return to their insights shortly. But first, let us say a few words about the role of canons in the disciplines of IR and IL.

In the most obvious sense, a canon of great thinkers helps articulate the role of tradition in the self-identification of scholars of IR and IL within their respective – though increasingly overlapping – epistemic communities. Referring to it constitutes a mark of professional belonging, even if the tradition is acknowledged only in its most superficial form. Most scholars in IR and IL

⁵See, *inter alia*, D. Armitage, *Foundations of Modern International Thought* (2012); R. Devetak, ‘Historiographical Foundations of Modern International Thought: Histories of the European States-System from Florence to Göttingen’, (2014) 41 *History of European Ideas* 1. For a useful reminder to take into account the clear differences between political and legal thought, albeit with an emphasis on more practice-based texts see E. Cavanagh, ‘Legal Thought and Empires: Analogies, Principles, and Authorities from the Ancients to the Moderns’, (2019) 10 *Jurisprudence* 463.

⁶See, most strikingly, S. Kadelbach, T. Kleinlein and D. Roth-Isigkeit (eds.), *System, Order, and International Law: The Early History of International Legal Thought from Machiavelli to Hegel* (2017).

⁷For example, for a wide-ranging effort to recover the international thought of women see K. Hutchings and P. Owens, ‘Women Thinkers and the Canon of International Thought: Recovery, Rejection, and Reconstitution’, (2020) 115(2) *American Political Science Review* 347; P. Owens and K. Rietzler (eds.), *Women’s International Thought: A New History* (2021); I. Tallgren (ed.), *Portraits of Women in International Law: New Names and Forgotten Faces* (forthcoming).

⁸This builds on existing works that examine canonization processes either in IR or in IL. In IL, the successful excavation of various great thinkers’ imperialist preoccupations, spearheaded by Antony Anghie’s study of Vitoria and his reception in *Imperialism, Sovereignty and the Making of International Law* (2004), has now opened up a space for examining why exactly certain individuals came to be considered ‘great thinkers’ in the first place: see especially P. Amorosa, *Rewriting the History of the Law of Nations: How James Brown Scott Made Francisco de Vitoria the Founder of International Law* (2019); M. Van Ittersum, ‘Hugo Grotius: The Making of a Founding Father of International Law’, in A. Orford, F. Hoffmann and M. Clark (eds.), *The Oxford Handbook of the Theory of International Law* (2016), 83. In IR, there is a well-established though somewhat idiosyncratic stream of scholarship on how the various ‘greats’ came to be considered as such, with studies of individual foundational figures trickling in over the past three decades: See, *inter alia*, A. Hurrell, ‘Kant and the Kantian Paradigm in International Relations’, (1990) 16 *Review of International Studies* 183; E. S. Easley, *The War over Perpetual Peace: An Exploration into the History of a Foundational International Relations Text* (2004); R. Jeffery, ‘Tradition as Invention: The “Traditions Tradition” and the History of Ideas in International Relations’, (2005) 34 *Millennium: Journal of International Studies* 57; E. Keene, ‘The Reception of Thucydides in the History of International Relations’, in C. Lee and N. Morley (eds.), *A Handbook to the Reception of Thucydides* (2015), 355; N. Guilhot, ‘The First Modern Realist: Felix Gilbert’s Machiavelli and the Realist Tradition in International Thought’, (2016) 13 *Modern Intellectual History* 681; S. Molloy, *Kant’s International Relations* (2017). For an attempt at systematizing these types of studies see C. Vergerio, ‘Context, Reception, and the Study of Great Thinkers in International Relations’, (2019) *International Theory* 11.

do not dismiss history and the canon; they passively accept it as relevant. When a new piece of historical material emerges – for example, when James Brown Scott established Francisco de Vitoria as the presumed true founder of international law – scholars oriented towards more contemporary matters merely registered the development (if at all) as an interesting fact. Mentioning Grotius and Vitoria in IL or Machiavelli and Hobbes in IR is thus often a mere nod towards the origins of contemporary theories, found in the rather vague and short historical sections at the beginning of textbooks that, from then on, describe respectively only black-letter law or contemporary IR theoretical debates. As such, the reference to canonical authors in general IR and IL scholarship is often ritualized and performative. There is little engagement with the famous works, but the names of their authors become the unquestioned foundation of a professional tradition, a common denominator that can hold together what can at times seem like increasingly disparate fields.⁹

More subtly, but even more importantly, mentioning the canon is also a way to restate what that tradition is and stands for. For instance, when Vitoria and the Salamanca School are mentioned at the beginning of IL textbooks today without much elaboration, it is generally a gesture towards the asserted universal scope of international law and human rights. In IR, the classic mentions of Hobbes or Machiavelli usually underpin claims about the universality of self-interested behaviour and the inevitable centrality of power politics across the ages. As such, great thinkers end up being used as basic concepts of our disciplinary discourse.¹⁰ Their omnipresence across wildly varying types of scholarly texts, their compatibility with different views and approaches in each discipline, and the staggering amount of ambivalent associations they relate to suggests that their relevance to us is not merely about how what they did and wrote prefigured the practical and intellectual problems we face as scholars of IR and IL; it is as much or even more about what they evoke to us in terms of emotions and imagination.¹¹ Ultimately, these thinkers are critical in that they are used – often anachronistically, but without any cost to their evocative power – as building blocks for grand accounts of the past that would presumably allow us to tease out helpful patterns to apply to the present. It is perhaps in this ability to shape our understanding of the history of international law and international relations that our canons are at their most consequential, and we will return to this point later.

For now, suffice it to say that in this context, the disciplines of IR and IL continue to treat their canons as indispensable intellectual pillars. Canonical figures themselves – not necessarily their works or their ideas – operate as crucial anchors within disciplinary narratives, and the collective imaginary they create helps hold disparate disciplines together, providing an internal core and establishing external boundaries to police. As a result, for all the criticism that exists, we only ever seem to be able to nibble at the canons' edges. Even when one adopts a more reflexive stance and considers canonical texts as heuristic devices as opposed to genuine historical ancestors of

⁹In IR, see for instance C. Sylvester, 'Experiencing the End and Afterlives of International Relations/Theory', (2013) 19 *European Journal of International Relations* 609. In IL, the anxiety over the intellectual disintegration of the discipline is best exemplified by the – now somewhat subsided – fragmentation debate: see H. G. Cohen, 'Fragmentation', in J. d'Aspremont and S. Singh (eds.), *Concepts for International Law: Contributions to Disciplinary Thought* (2019), 315 and the literature referenced therein.

¹⁰For a brief discussion of the use of authors as concepts see C. Vergerio, 'Context, Reception, and the Study of Great Thinkers in International Relations', *International Theory* 11, 127–8. We use the term 'basic concept' in the sense meant by historian Reinhart Koselleck (1923–2006): 'a concept combines in itself an abundance of meanings. Thus a concept may be clear, but it must be ambiguous. It bundles together the richness of historical experience and the sum of theoretical and practical lessons drawn from it in such a way that their relationship can be established and properly understood only through a concept. To put it most succinctly: the meaning of words can be defined exactly, but concepts can only be interpreted ...': 'Introduction and Prefaces to the *Geschichtliche Grundbegriffe*', (2011) 6 *Contributions to the History of Concepts*, at 20, translation by Michaela Richter.

¹¹For example, think of the evocative power of recurring claims that international law might be living a Grotian moment: how, in that context, Grotius has come to symbolize a commitment to the discipline and a belief in the possibility of achieving breakthrough advancements towards a peaceful and just world order.

contemporary doctrines and theories, there seems to be a pressing need to retain the canon in some shape or form, and preferably in a form that does not differ too drastically from its existing iteration. One of the fears, it seems, is that lest we have something to replace these canons with, our disciplinary scaffoldings risk collapsing on themselves. Their utility thus comes to trump concerns for historical accuracy, which ultimately makes them remarkably resilient.

Of course, one of the questions that inevitably arises when discussing canons is whether the chosen texts possess some intrinsic value that naturally selects them for posthumous fame, or whether their posterity is simply the manifestation of various hierarchies of power. This important question has been theorized at length by scholars of literary studies. The ‘Canon Wars’ of the 1990s – a set of debates turning around efforts to expand the list of literary works read in schools and universities to include larger proportions of texts by women and writers of colour – clustered largely around two poles. One pole – call it the traditionalist camp – claimed that the canonization of a particular text comes about predominantly as a consequence of the value of that text. The paradigmatic argument here is Harold Bloom’s *The Western Canon*,¹² which suggests that the value of a text comes about in significant part due to that text’s engagement with, and transformation of, a formative corpus of canonical texts. While writers emulate their canonical precursors, they also feel the need to escape their influence and forge a distinctive literary voice. Influence thus consists both in imitating and overcoming canonical inheritance, and the literary ‘tradition’ consists in the repetition over time of this process of influence. The other pole – call it the relativist camp – rejected what it understood as the essentialist constitution of the traditionalist position and claimed that the canon instead comes to be as a manifestation of power relations and social structures of domination. John Guillory’s *Cultural Capital*, for instance, argues that ‘the problem of what is called canon formation is best understood as a problem in the constitution and distribution of cultural capital, or more specifically, the problem of access to the means of literary production and distribution’.¹³ On this view, social groups with their hands on the levers of power select texts for canonization from within their own groups, and dynamics of marginalization persist.

While these two poles have obvious points of intractable disagreement, a notable meeting of the minds occurs around the question of how the canon functions in the present. For Bloom, as well as for more relativist commentators, writers bend or ‘creatively misread’ the work of their canonical forebears to their own purposes. Thus, the canon functions much less as a singular monolith which successive epochs build up brick by brick, and much more as a fluid entity that comes into being in a different form every time it is reimagined. In many domains the idea of the canon has come to be overwhelmingly associated with repressive intellectual hegemony, and we certainly do not lack for cases where this has been true. But we can also conceive of the canon more expansively as the liminal space in which the limits and possibilities of particular disciplines and bodies of thought come to be negotiated and renegotiated. We place this idea at the heart of the present symposium.

2. Canons as sites of contestation

Canons do not materialize out of thin air; they are the product of oft-forgotten series of decisions, many of them idiosyncratic and retrospectively debatable. As such, one of the shared starting points of our reflections is the centrality of readers’ agency in processes of reception. Within literary studies, reception theorists have extensively emphasized the agency and creative aspect of relying on past authors and their ideas. The invocation of these ideas, or even more explicitly, the revival of authors or their belated incorporation into disciplinary canons, do not entail a mere transmission of knowledge but necessarily involve an adaption, a translation dependent on the

¹²H. Bloom, *The Western Canon: The Books and School of the Ages* (2014).

¹³J. Guillory, *Cultural Capital: The Problem of Literary Canon Formation* (2013), at ix.

receivers and their context.¹⁴ Consequently, it is perhaps more accurate to speak of hybridization or *métissage* than of ‘reception’ with its connotation of passivity.

This opens the way to thinking more proactively about the dynamics that shape the decisions of revivers, translators, and the likes, from mundane considerations of availability and readability (some texts being much more difficult to access or simply to engage with than others) all the way up to the impact of international power politics. Through this lens, one can grapple with the making of the canon of international legal and political thought in a way that looks beyond narratives of cultural imperialism and instead explores stories of local agency. There is already an influential literature on the appropriation, adaptation, and reinvention of European international legal concepts by actors across the Global South,¹⁵ but much more still needs to be done on the making and instrumentalizing of canonical figures.

One may suggest, of course, that by continuing to focus on figures who are already part of the canon, even through the less familiar angle of canonization in itself, we are bound to remain confined to ‘the very markers, periodization and causal sequencing of the linear disciplinary histories [we] seek to question and disrupt’.¹⁶ It is true that even the most historically-oriented and historiography-savvy treatments of canonical figures participate in the perpetuation of the idea that those names, in themselves, hold some seminal value to the understanding of what international law and international relations are and have been. But we hope that by shedding light precisely on how the construction of the canon related to the enshrinement of these various temporal elements, we might help deconstruct the edifice in a way that makes space both for new narratives to emerge and for salvageable elements of the current ones to be retained.

Our goal, ultimately, is to shed light on the ways through which the IR and IL canon came about in order to help take it down from its resilient pedestal and provincialize it. We set out to historicize it as a curious historical artefact, one that was shaped by all sorts of contingencies that have now been almost entirely forgotten. This, we are aware, is not sufficient to fundamentally rethink the canon across international legal and political thought. Provincializing a canon of European men does not magically make new voices appear. Yet, we believe this exercise to be an important complement to the efforts of those working in fields such as comparative political theory,¹⁷ who do recover these voices through painstaking historical work. Our aim is to encourage a stance of epistemological humility on the part of those who have been trained within the confines of the European canon – including the critical ones who, in the vein of Arendt and Agamben, draw on the same canonical references to elaborate their arguments – and in doing so, to make space for the alternatives to be given pride of place instead of being relegated – as they still often are – into unthreatening regional niches.

Ultimately, we hope for this symposium to be part of the broader conversation within the humanities and the social sciences about the politics of disciplinary canons and the possibility for disciplinary reinvention. In both IR and IL, the canon continues to exist relatively undisturbed. It continues to provide us with many – if not most – of our underlying assumptions about how the world works. It forms the invisible bedrock of dominant theories, providing both substantive propositions (e.g., in IR, the international system is akin to an anarchical state of nature) and a claim to authority over competing worldviews through the appeal to transhistorical wisdom

¹⁴For an excellent overview of reception theory see P. Burke, ‘The History and Theory of Reception’, in H. A. Lloyd (ed.), *The Reception of Bodin* (2013), 21.

¹⁵The seminal account remains A. Becker Lorca, *Mestizo International Law: A Global Intellectual History 1842–1933* (2014). For more recent forays of a similar kind see, for instance, M. A. Carrai, *Sovereignty in China: A Genealogy of a Concept since 1840* (2019).

¹⁶J. d’Aspremont, ‘The Critical Attitude and the History of International Law’, (2018) 1(3) *International Legal Theory and Practice*, at 1, 32. See also J. d’Aspremont, ‘Turtablism in the History of International Law’, (2020) 22 *Journal of the History of International Law* 472.

¹⁷See, for instance, the new series ‘Studies in Comparative Political Theory’ at Oxford University Press.

(e.g., the invocation of Hobbes). It lives on in our collective consciousness, typologizing the different worldviews that are available to us as scholars.

In this context, telling the history of how the IR and IL canon came about is a way to subvert some of the most deep-seated assumptions and categories of our discipline in order to make space for new discussions to emerge. Should we hang on to our canon? Are some parts more salvageable than others? Which disciplinary assumptions most seriously take a toll once we debunk stories around their originators? We hope that far from being the domain of a few historically-minded IR and IL scholars, this symposium will raise questions for all of those interested in the foundational assumptions of our disciplines.

3. Canons and the conceptualization of historical time

At the heart of the matter lies the question of historical time. Canons shape the way we think about history and about our relationship to it. At their most powerful, canons can create of sense of a shared past and, through it, a sense of a shared future.¹⁸ They are often couched so as to establish a sense of linearity between past and present, or even more boldly, a sense of inevitable progress over time. Of course, some scholars have emphasized the importance of non-linear processes in the evolution of international thought, noting for instance that ‘the pivotal moments in the formation of modern international thought’ were ‘points of retrospective reconstruction or appropriation’.¹⁹ Yet, the impact of this claim for those studying the history of international law and international relations has destabilized what was once a shared approach to historical meaning-making, focused on the sheer excitement of recovering the understudied and under-theorized relation of these disciplines with their past. Situating the canon as a historical artefact forces us to complexify our understanding of temporality in ways we are still struggling to articulate fully. In what follows, we thus briefly sketch out a few tools for thinking about the relationship between the canon and various aspects of temporal experience.

The first is the concept of dual temporality. On the one hand, canons tend to be presented as standing outside of time. For example, in IL, the various authors in the Classics of International Law series are depicted as interpreters of immutable timeless principles such as equality and universality, a view that dovetails with the broader naturalist understanding of international law as the positive expression of a higher universal justice. On the other hand, canons are also commonly used to evoke a temporal experience of diachronic change. In the same Classics of International Law series, the various great thinkers are presented as embodying an increasing level of legal sophistication, in order to paint the narrative of progress that is commonly associated with a modern discipline.²⁰ The same pattern can be found in IR’s presentation of its canon; through Thucydides, Machiavelli, Hobbes, Grotius, Locke, Rousseau, Kant, and the rest, we are once again told a story that combines the existence of timeless principles with a broader narrative of linear progress and the achievements of modernity.

A second recurring temporal element associated with canonical authors in IL and IR is that of the moment. These ‘moments’ are described as specific historical phases embodying the spirit and values of a great thinker’s work and holding promise for the meaningful and fast development of the international order. Across IL and IR, the language of the moment has perhaps been most often associated with Hugo Grotius. Claims that we might be living a Grotian moment multiplied after the end of the Cold War²¹ and have only recently receded. Some of the authors who adopt

¹⁸For a meaningful example of such a process, detailing how German scholars used Roman law to construct narratives of Europe’s shared destiny, see K. Tuori, *Empire of Law. Nazi Germany, Exile Scholars and the Battle for the Future of Europe* (2020).

¹⁹See Armitage, *supra* note 6, at 12.

²⁰See, e.g., T. Skouteris, *The Notion of Progress in International Law Discourse* (2010).

²¹See, for instance, the potential for a Grotian moment as delineated by then UN Secretary General Boutros Boutros-Ghali in 1994: ‘A Grotian Moment’, (1994) 18 *Fordham International Law Journal* 1609.

this expression present it in a rather neutral and technical form. Michael Scharf, for instance, defines the ‘Grotian Moment’ as ‘a paradigm-shifting development in which new rules and doctrines of customary international law emerge with unusual rapidity and acceptance’.²² More often, though, the Grotian moment and the tradition it is said to embody are charged with an explicit normative dimension supporting the universal and binding nature of international law.²³ Ultimately, the idea of the ‘moment’ delimits historical time in a way that entails a specific reading of the arc of history, often linked to a particular vision of progress. It functions in a way not dissimilar to the broader concept of ‘periods’ or ‘epochs’ – as in Wilhelm Grewe’s *Epochs of International Law*²⁴ – sectioning time into categories that allow for a compellingly simplified version of history to emerge.²⁵

A third useful concept is that of overlapping temporalities. Canonical figures enjoy the place they do in various professional traditions as a result of their serial receptions and the accretion of interpretations, accounts and uses of their work and relevance. As such the serial receptions that form the baseline of any professional heritage create a complex and inextricable web of temporalities. For example, our relationship to Thucydides or to Francisco de Vitoria is neither direct nor marked by a sharp distinction between past and present. Within the canon, it is not just about Vitoria and us or Thucydides and us, but also about everything in between, about who and what brought these figures to us, and what traditions mediate our encounter with their identity and their work. In other words, the canon makes it particularly easy to see the ‘many different temporal experiences, structures, and layers at work at any moment in history’.²⁶ As such, our necessary reliance on what can be seen as an accumulation of receptions²⁷ raises numerous questions about how to negotiate ‘the “living bond” between the past and the present’.²⁸

In other words, in the overlapping and multilayered temporalities of the canon of international legal and political thought, someone such as Francisco de Vitoria can hardly be just the situated sixteenth-century monk and teacher. The imperialist enabler of Western exploitation, the humanitarian prophet of equality, and now possibly the brilliant theorist of early global capitalism are there, even if silently, anytime Vitoria and international law are associated. The imposing and complex legacy of canonical figures evokes all these experiences and more, defying their untangling in neat breaks between past, present, and future.²⁹

In sum, this symposium is inspired by the intuition that the canon of great thinkers represents an ideal heuristic device to excavate the ‘layers of time’³⁰ that make up our disciplinary imaginations. Indeed, history-writing’s exploration of the time of law and politics opens far beyond a

²²M. P. Scharf, ‘Seizing the “Grotian Moment”: Accelerated Formation of Customary International Law in Times of Fundamental Change’, (2010) 43 *Cornell International Law Journal*, 439, at 441.

²³For an insightful critical analysis of the invented nature of the Grotian tradition see J. T. Parry, ‘What is the Grotian Tradition in International Law?’, (2013) 35 *University of Pennsylvania Journal of International Law*, 299.

²⁴W. G. Grewe, *The Epochs of International Law* (2000).

²⁵For a particularly thought-provoking analysis of the conventional medieval/modern periodization see K. Davis, *Periodization and Sovereignty: How Ideas of Feudalism and Secularization Govern the Politics of Time* (2008). For a problematization of periodization in international legal history see O. Diggelman, ‘The Periodization of the History of International Law’, in B. Fassbender and A. Peters (eds.), *Oxford Handbook of the History of International Law* (2012), 997. For similar considerations in IR see X. Guillaume, ‘Historical Periods and the Act of Periodization’, in B. de Carvalho, J. Costa Lopez and H. Leira (eds) *The Routledge Handbook of Historical International Relations* (2021), 562.

²⁶H. Jordheim, ‘Against Periodization: Koselleck’s Theory of Multiple Temporalities’, (2012) 51 *History and Theory* 151, at 157.

²⁷On repetition as shared historical experience see *ibid.*, at 162.

²⁸Orford, *supra* note 2, at 176.

²⁹For an account of recent developments in the study of historical time, recognizing its inherently political nature and going beyond sharp distinctions between past, present and future, see B. Bevernage and C. Lorenz, ‘Breaking up Time. Negotiating the Borders between Present, Past and Future’, (2013) 63 *Storia della Storiografia*, 31.

³⁰The expression recurs in the late work of Reinhart Koselleck, whose theory on the conditions of possible histories has shaped our understanding of the temporality of canons. On the mentioned theory see R. Koselleck, *Sediments of Time: On Possible Histories* (2018).

negotiation between contextual purity and a transformational embracing of anachronism. Together with our fellow contributors, we have used canonical figures to put the spotlight on the concurrent, yet distinct, structures of repetition and rupture that inform our complex experiences of law and politics – themselves linked by varying relations of overlapping, opposition and conversation. Indeed, the canon, an archive and inventory of tradition and contestation, embodies the ‘accumulation of experiences’ and ‘the simultaneity of the non-simultaneous’ at the basis of the ‘times of history’, inevitably ‘constituted interpersonally’ and socially.³¹ It is only by embracing this complexity of temporality that we can truly grasp the ability of the canon to enable and constrain, to create powerful shared histories that simultaneously inspire connection and ground exclusion.

4. The contributions

Although the authors in this symposium touch on a wide range of different canonization processes across IR and IL, the different articles speak to each other across explicit thematic lines. In the most obvious sense, we repeatedly encounter famous thinkers who have broken out of their contexts and reappeared again and again across time and space, with our authors carefully unearthing the dynamics behind their various reincarnations.

Juan Pablo Scarfi sheds light on the international power politics that shaped the trajectory of Vitoria’s revivals in the Americas. He tells the story of two men – James Brown Scott and Camilo Barcia Trelles – who, through their friendship, found common ground in the idea of canonizing the Spanish jurist as the true founder of international law, but were then pulled apart as to how to paint their hero based on their diverging political projects, and especially their opposing views of the Monroe Doctrine. By contrasting these two men’s respective depictions of Vitoria, Scarfi touches on a central theme highlighted above: the problem of ‘dual temporality’ and the broader ways in which actors conceptualize the relationship between the present, the past, and the future. Here, there is a clear split between Barcia, who nostalgically turns to Vitoria as the remaining beacon of a shining past, as a man whose work can provide the narrative arc behind the Spanish empire’s rise and fall, and Scott, who sees Vitoria as an inspiration for a US-dominated liberal internationalist future.

This form of tension is also discussed explicitly in Sean Molloy’s piece, though he adds a different element to the conversation by focusing on a case of non-canonization. Echoing Scarfi’s analysis of the depiction of Vitoria’s thought as a central node in the story of the Spanish empire’s rise and fall, Molloy examines the way in which Hegel was not canonized but demonized through his association with the Third Reich. Here again we have a story according to which one man’s thoughts – no matter how impenetrable they may seem – presumably launched a thousand political ships. Molloy charts the debates around Hegel’s work, notably his infamous demonization by a cherry-picking Karl Popper and his eventual rehabilitation, first in philosophy and then in IR. Demonization, this piece emphasizes, is to some extent the mirror image of canonization when it results in notoriety, though in many cases it can also lead to full-on erasure. Molloy also points out that this can actually have productive long-term consequences, as a sidelined thinker may not suffer from the flattening out of their thought that is so common to those who do make it into the disciplinary canon.

Our two final contributors, Francesca Iurlaro and Jacob Giltaj, take us beyond the canonization of specific authors to even broader stories of revival and canon-making. Iurlaro gives us a glimpse into the way famous early modern jurists such as Grotius and Gentili used the literary canon from classical antiquity as a scaffolding for new legal tools in the regulation of warfare, emphasizing the extent to which these jurists ultimately reinterpreted the works they were immersed in. In doing so, she places classical literature squarely back at the heart of the

³¹Koselleck, *ibid.*, at 8; ‘*Historik and Hermeneutics*’, at 44–5, in *ibid.*

development of international law and highlights the complicated interplay between authenticity, imitation, and authority. Giltaij, for his part, examines what is arguably the most imposing and controversial foundation for modern law in Europe: the Roman *jus gentium*. He argues that the *jus gentium* only came to be considered as the foundation of modern international law in the 1930s and 1940s after long being dismissed as not constituting a form of international law at all. Tracing its historical reappraisal, he shows that the latter was driven largely by German émigrés in the US and sheds light on the role it played in the construction of the post-1945 international order, particularly in the context of the rise of human rights regimes and the enshrinement of individualism and universalism in international law.

These last contributions raise some particularly interesting questions around the relationship between authenticity and institutionalization. While Iurlaro reminds us that works of literary fiction – including some whose authorship credentials were far from clear – were central to the early modern development of international law,³² Giltaij shows us how the Roman notion of *jus gentium*, as a form of invented tradition, has effectively underpinned the development of previously inexistent legal notions which have now been institutionalized into contemporary international law. This further complicates the dynamics between canons, fictions, authority, and authenticity; as one scholar adroitly puts it, ‘originally freely invented material can form a sediment in the collective consciousness and become a hard social fact; there in the course of time it solidifies into lexical phrases, manners of speaking and thinking, concepts, even substantives. We could say that it takes on *authenticity* – in any event its *inauthenticity* is gradually forgotten during the metamorphosis’.³³ While our contributors complicate our understanding of these relationships more than they provide clear-cut answers, we hope our readers will enjoy grappling with these thought-provoking questions as much as we did.

³²On this point see also C. Warren, *Literature and the Law of Nations 1580–1680* (2015).

³³A. Koschorke, *Fact and Fiction: Elements of a General Theory of Narrative* (2018). We thank Francesca Iurlaro for bringing this particularly adroit formulation to our attention.