

All's Well That Ends Well, Sort of

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Oona A. Hathaway and Scott J. Shapiro, [The Internationalists: How a Radical Plan to Outlaw War Remade the World](#) (2018).

“There ought to be a law about that” is a common response to circumstances we don’t like. But outlawing war? We might as well legislate against the flu. A new book called [The Internationalists: How a Radical Plan to Outlaw War Remade the World](#) authored by Professors Oona A. Hathaway and Scott J. Shapiro of Yale Law School shows how the endless cycle of war and peace prior to World War I has given way to a New World Order, post World War II. Today, they argue, war is no longer legitimate and might does not make right. But this New World Order comes at a cost as civil wars and internal disputes challenge established national borders (forged themselves by war). Has one form of aggression just replaced another?

Hathaway and Shapiro have produced a readable and provocative book that I like because of its extensive coverage over three self-contained but connected parts. The first part is about Hugo Grotius and the background that led to his groundbreaking book on international law and war. Or perhaps, his book is actually about war as international law, as conquest became the preferred means of resolving conflict among nations. A 17th Century naval battle in the Straits of Singapore between the Dutch and the Portuguese was the catalyst for a legal dispute that Grotius infamously resolved by laying down principles for just war. But these principles expanded beyond their boundaries to support the use of aggression to resolve a wide range of disputes, going beyond the limits of “just war.” Grotius, as Hathaway and Shapiro tell us, laid the foundations for a world order which recognized the nation’s right of conquest, a license to kill within skirmishes, and gunboat diplomacy. Within this order, nations had to remain impartial or take sides; there was no room for intervention through sanctions or mediation. Invariably, nation-states would be forced into conflicts, such as border disputes, debt defaults, or assassinations, with resulting regional or global escalation. World War I was the culmination of the international order that Grotius wrought.

Hathaway and Shapiro’s first part gives way to a second part in which they take the reader down the path to the Briand-Kellogg Pact and the many trials that followed. Salmon Levinson, a corporate lawyer from Chicago, took inspiration from events after World War I, as well as the pragmatism of John Dewey, and heralded the cause of banning war. Working with Senator Philander Knox and Henry Cabot Lodge, Levinson tried but ultimately failed in his efforts when Congress refused to ratify the League of Nations. The Briand-Kellogg Pact emerged from these ashes a decade later, setting the stage for global debates over the role of aggression and the final resolution in the principles emerging from the Nuremberg Trials.

This second part is my favorite of the three. It is dense and textured, traversing the emergence of Japan as an imperial power fueled by that nation’s discovery of Grotius as a scholar and the heated academic politics between Carl Schmitt and Hans Kelsen in Weimar, then Nazi, Germany. Hathaway and Shapiro provide a multi-country narrative, both synchronic and diachronic, that describes a transition from the Old World Order of Grotius to a New World Order, that is perhaps taking shape.

Historical and legal transitions bring intellectual debates to life and show what possibilities are available

to the contemporary reader. Hathaway and Shapiro capture a world in flux, retaining the bad features of the Old Order while lacking the full maturity of the New. World War II and the years leading up to it were an unsettling, disturbing and violent period. Hathaway and Shapiro capture the familiar anxiety but filtered through the legal and ideological debates of those chaotic years. This second part reads like an engrossing thriller, even though the ending has been thoroughly spoiled by our knowledge of history.

The third part reads like a cold denouement coming in the wake of a gut-wrenching climax. We get to see how the principles of the Old World Order fared, revealed like the “Where are they now?” photos of a stellar academic class. But their fates are less well settled. The New World Order is one in which conquest is illegal, aggression is a crime, sanctions are permitted, and agreements among nations cannot be coerced. I was reminded of Albert Hirshmann’s description of *doux commerce* from his “The Passions and the Interests.” Peace reigns and the relations among nations are founded on consensual exchange.

But Hathaway and Shapiro show how this resolution is far from sweet. Ethnic tensions, civil strife, and violence within the nation-state have replaced hostilities between nations (although those still persist). Grotius’ justifications for war and the resulting incorporation of territories within nations has set the stage for a new type of localized warfare. The authors argue that this new style of aggression is the price for the New World Order. The third book provides a somber ending to *The Internationalists*, one wrapped in statistical studies by the authors and their capable research assistants. They teach us that the size of nations has shrunk as measured by size of territories since World War II. The resulting nations have become more unstable as internal conflict is not suppressed by larger entities, such as the Soviet Union or the Ottoman Empire. Outcasting through the use of sanctions is the new instrument for conflict resolution with successful resolution resting on economic and political power rather than military might. What the third part of the book demonstrates is that war, as justified by Grotius, led to territorial expansion and imperialism with the resulting patina of stability that centralized power of the Old World Order. The New World Order lacks this stability. These findings are not surprising.

The title for this jot is an allusion to Leo Tolstoy’s *War & Peace*, a novel about Napoleon’s failed conquest of Russia, whose working title was “All’s Well That Ends Well.” Would the conclusion of Hathaway and Shapiro’s book support Tolstoy’s original choice of title? Or has the cycle of war and peace taken just another form? Conquest, as Grotius would have us understand it, laid the unintended path to imperialism and totalitarianism. Even with the patterns of violence and oppression we see today, the New World Order, according to Hathaway and Shapiro, is perhaps on the arc to equality and peaceful coexistence among nations. However, with the endless patterns of violence, the end of that rainbow seems to dissipate out into the horizon. Nonetheless, the path may be the only feasible alternative to the violence underlying the Old World Order.

An unsatisfying ending on its face, the third part sets a challenge for the next generation of internationalists, those who seek to ban all forms of aggression and replace it with reasoned exchange among peoples across and within borders. It will take more than a treaty for this next generation to thrive.

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