 STATES BETWEEN STATES: THE HISTORY OF INTERNATIONAL POLITICAL THOUGHT FROM THE ROMAN EMPIRE TO THE EARLY NINETEENTH CENTURY

Convenor: Dr MJ Ryan (2019-20)

INTRODUCTION

What is the ‘political’ in the history of political thought? In his Politics, the Greek philosopher Aristotle understood τὰ πολιτικὰ – the ‘political things’, politics, of his title – to be those things that concern the polis, the city-state that was the central unit of (precisely) political organisation in ancient Greece. This covered everything from the motivation and rationale of the polis, its constitutional structure, who qualified for citizenship, the nature of its government, to political safety strategies on one hand and musical education on the other. At its base it involved a narrative about human beings forming into a political community for ends that cannot otherwise be achieved. This narrative, in multiple permutations, has been central to the tradition of Western political thought, and its focus is primarily on the relationship of citizens to fellow-citizens, and citizens to government, within one political unit, what we call ‘the state’. And yet, even in Aristotle’s Politics it is clear that the polis does not exist in isolation. The lives of its citizens demand slaves, who need to be ‘hunted’ abroad. Thus the polis must stretch out into space beyond itself. And it needs goods, which means merchants living within it who are nevertheless not part of it, not citizens. Thus the outside comes in. These inside/outside relations impact on the very theorisation of the polis itself, as Aristotle defines the relationships and laws between citizens against both commercial treaties and military alliances: both of which might look uncomfortably like political relations, but which for Aristotle’s purposes must, crucially, be excluded as such.

The ‘global turn’ in modern political thought, just as in history, has interested itself in both of these dimensions of inside/outside: how the state extends beyond itself into the space of others, and conversely how that extension impacts in turn back on the state itself. From a theoretical point of view, the concept of the ‘political’ itself is stretched and put in question. Both at the level of government and at the level of citizenship, new spaces of politics open up, spaces that we – for a want of vocabulary which is, precisely, part of our intellectual heritage – might call for convenience ‘international’, but which might better be labelled ‘inter-political’ or ‘trans-political’. For the international is merely one, historically specific (and, for some, increasingly passé), way of constructing the space between states: a word with which by now we are familiar and comfortable, but which involves multiple assumptions and disguises dimensions of our political existence which might be less familiar, more exciting, but also less comfortable as well.

In this paper, then, we look historically at the different ways in which this ‘international’ space has been constructed. We begin in ancient Rome, with a word, Imperium, that of itself crosses the inside/out divide, being both a word for ‘internal’ rule and a word for the concrete, ‘external’ extension of rule – the ‘empire’; and we end with intellectual challenges to European conceptions and practices of empire in the early nineteenth century. Importantly, however, the intellectual history of the ‘inter-political’ or ‘international’ is not simply the intellectual history of imperial formations. As the paper shows, this dimension of the history of political thought involves all sorts of ‘inter-political’ concepts, ‘states between states’: unions, federations, confederations, composite monarchies, leagues, alliances, friendly states, hostile states; as well as new spaces of ‘inter-political’ citizenship.

As historians of political thought in Cambridge have always insisted, awareness of the historical contingency of our political vocabularies is a fundamental resource in being able to think critically about the concepts of the present and imaginatively about possible concepts of the future. This is why Paper 5 looks both at the history of 20th century political thought and at present-day political thinking: the two go together. Paper 6 is designed as a paper in the history of political thought, but a paper that
intersects with some of the most exciting new developments in current political thinking and indeed in the current practice of history more generally.

TEACHING

This paper has been designed to be available to all third-year students in History, and as an option for third-year students in the ‘Politics’ stream in POLIS. For History students who have already taken history of political thought options in Part I, or are taking them in Part II, the paper has been designed to provide a further opportunity to explore a dimension of the history of political thought that figures only tangentially in the other papers. There is no substantial overlap and no questions will be ‘starred’ for those taking Papers 4 or 5 as well. It is also hoped, however, that third-year students who have not previously done any history of political thought may find this an attractive option: the paper does not demand any previous experience of the subject, and, just because of the nature of the ‘international’ arena, has a concrete, ‘practice-textured’ feel that students of the history of states and empires more generally may be able fruitfully to connect with their other studies. The paper will be taught through 16 lectures in the Michaelmas term followed by 8 related text classes in Lent term, which will provide training in the reading of texts as well as allowing students to deepen their engagement with the topics. They will also provide a forum in which to discuss issues with each other as well as with their supervisors and lecturers. Supervision will be centrally coordinated by the Convenor of the paper. At present it is envisaged that supervision will be given individually and that there is no cap on numbers taking the paper.

INTRODUCTORY READING

The political structure and geography of the European world


Brendan Simms *Europe. The struggle for supremacy 1453 to the present* (London: Penguin, 2014), Chs. 1-4

Derek McKay and H.M. Scott *The rise of the great powers 1648-1815* (London, 1983)

The Short Oxford History of Europe:

E. Cameron (ed) *The sixteenth century* (Oxford, 2006), Chs 2 (Greengrass), 6 (Brading)

J. Bergin (ed) *The seventeenth century* (Oxford, 2001), Chs 3 (Upton), 4 (Parrott), 6 (Pagden)


European empire in America and Asia

D.A. Brading *The first America: The Spanish monarchy, Creole patriots and the liberal state, 1492-1867* (Cambridge 1991)

J. Burbank and F. Cooper *Empires in world history. Power and the politics of difference* (Princeton 2010)
J.H. Elliott  
Empires of the Atlantic world: Britain and Spain in America 1492-1830  
(New Haven and London, 2006)

S. Subrahmanym  
The Portuguese empire in Asia, 1500-1700 (London 1993)

International Political Thought

David Armitage  
Foundations of modern international thought (Cambridge, 2013), Part I

Jens Bartelson  
Visions of world community (Cambridge 2009)


Jordan Branch  
The cartographic state. Maps, territory and the origins of sovereignty (Cambridge 2013)

Annabel Brett  

B. Fassbender and Anne Peters eds., The Oxford handbook of the history of international law (Oxford 2012)

Stuart Elden  
The birth of territory (Chicago 2014)

Andrew Fitzmaurice  
Sovereignty, Property and Empire 1500-2000 (Cambridge, 2014)

Sankar Muthu ed.  
Empire and modern political thought (Cambridge 2012)

Stephen C. Neff  
Justice among nations. A History of International Law (Harvard 2014)

Anthony Pagden  
Lords of all the world. Ideologies of empire in Spain, Britain and France c. 1500 – c. 1800 (Yale, 1995)

Anthony Pagden  
The idea of Europe. From antiquity to the European Union (Cambridge 2002)

Anthony Pagden  
The burdens of empire, 1539 to the present (Cambridge 2015)

SCHEDULE OF TOPICS AND READINGS

Roman imperium

Roman law and Roman social sensibilities lagged behind Rome’s rise to hegemony over Greece, the rest of the Mediterranean and to the north of the Alps. Essentially, the constitutional arrangements of a city-state were applied to an empire. The rights of Roman citizenship were jealously guarded against allies, a conservative outlook which among other things prompted the Social War. The relationship of allied or ‘federated’ cities to Rome underwent a long degeneration to the disadvantage of the former; the new concept of ‘free cities’ or civitates liberae served Rome’s interests better. The questions arising from citizenship and lesser conditions of relative advantage and disadvantage concerned the legal status of individuals and entire communities simultaneously because the two were usually linked. This week’s
readings introduce the only full-scale treatment to survive from the late republic on citizenship in the shape of Cicero’s oration on behalf of Balbus, his reflections on the cosmopolitan mission of the universal Roman city in *On the Commonwealth* and the implicit plaidoyer for that same inclusive policy by the second-century Greek provincial, Aelius Aristides, from Smyrna.

**Texts**

Cicero


Aristides

‘To Rome’ in Oliver (below), 895-907

**Secondary reading**

**Imperial Politics and Ideology**


P. Brunt


A. Lintott

‘What was the *Imperium Romanorum*?’, *Greece and Rome* 28 (1981), 53-67

J.H. Oliver

*The Ruling Power: a study of the Roman Empire in the second century after Christ through the Roman oration of Aelius Aristides* (Philadelphia 1953)

J. Richardson


J. Richardson

*The language of empire* (Cambridge 2008)

**Citizenship**

C. Ando

*Roman social imaginaries: Language and thought in the context of Empire* (Toronto 2015), Ch. 1 ‘Belonging’

P. Brunt


P. Garnsey

‘Roman citizenship and Roman law in the late Empire’, in S. Swain and M. Edwards eds., *Approaching late antiquity* (Oxford 2006)
Medieval imperium

In the patristic period the concept of empire was not just a geo-political concept: it possessed immense theological significance as well. St Jerome saw in the Roman Empire the fulfilment of the last part of the prophecy of Daniel. The Roman Empire remained central to Western European identity in the early middle ages and entered a new phase of its long life thanks to Charlemagne’s coronation on Christmas Day 800 by Pope Leo III. The papal dependence on Carolingian military might created a tight but tense nexus between this western, Catholic, version of the Roman Empire and the papacy. The forged Donation of Constantine is a papal attempt to shape this relationship. Twelfth-century scholars and statesmen in the entourage of Emperor Frederick I (‘Barbarossa’) sculpted an entire scheme of universal history around the Roman Empire, even as canon lawyers loyal to the papacy began to assert the Church’s power to ‘translate’ or transfer the Roman Empire from race to race and dynasty to dynasty. This story was affirmed and contested by theologians and lawyers for the rest of the middle ages. This week’s readings exemplify the historicising, theological and legalistic amalgam which resulted from medieval reflection on the concept of Empire.

Texts

St Jerome

Commentary on the Book of Daniel, bk 2 vv. 31-40 (Moodle)

The Donation of Constantine

The Crisis of Church and State 1050-1300 (Toronto/London 1960), 21-22

Standard Gloss to Gratian’s Decretum, D. 96 c. 13 (trsl to be provided)

Otto of Freising


Innocent III

Decretal Venerabilem (trsl to be provided)

Thirteenth-century glosses on Venerabilem (trsl to be provided)

Excerpts from Fourteenth-century Roman-law Commentaries on the Transfer of Empire -Cinus of Pistoia, Johannes Faber, Bartolus of Sassoferrato, Baldus de Ubaldis, Paulus de Castro (trsl to be provided)

Landolfo Colonna

On the Translation of Empire (trsl. to be provided)

William of Ockham

A Short Discourse on Tyrannical Government (ed. A.S.McGrade, trsl. J. Kilcullen; Cambridge 1992), chaps4-5

Secondary reading
The Early-Medieval Background

R. Folz  *The Concept of Empire in Western Europe from the Fifth to the Fourteenth Century* (London 1969)

James Muldoon  *Empire and Order. The Concept of Empire 800-1800* (Basingstoke, 1999), ch. 5

B. Tierney  *The Crisis of Church of State*, 16-23

Otto of Freising and the Twelfth-Century Empire


Late-Medieval Papal Theory and its Opponents


Roman-Law Theory

J.A. Canning  *The Political Thought of Baldus de Ubaldis* (Cambridge 1987), cah. 1


3  **Spanish empire in America: Ideology, critique and jurisdiction**

In 1516 the Habsburg Charles, Duke of Burgundy, succeeded, in however contested a fashion, to the thrones of Aragon and Castile. With his election as Holy Roman Emperor in 1519, Charles V ruled over lands that stretched from east to west of Europe and across the Atlantic to Spanish possessions in America. A circle of Spanish humanists and jurists celebrated their new prince as *Dominus Mundi*, ‘lord of all the world’, directly reviving Roman imperial ideology and also continuing the medieval tradition. However, this understanding of the position of Charles V did not go unchallenged: theologians and jurists at the University of Salamanca argued the impossibility of anyone being ‘lord of all the world’, since ‘the world’ was not a political unit. Rather, if anything, the empire had to be understood for what it in fact was, a union of different kingdoms under one crown. In this week’s lecture we look at the theoretical debate before turning to how the contractual understanding of jurisdiction involved in the anti-imperialist arguments was translated to the understanding of Spanish jurisdiction in the New World. Although the topic is centred on the reign of Charles V, by way of a coda we take a brief look forward to the reign of Philip III in the work of Guaman Poma de Ayala.

**Texts**
Antonio de Guevara  *Libro aureo del emperador Marco Aurelio con relox de príncipes* (1529), tr. Thomas North, *The diall of princes* (1557) [EEBO (use 1568 edn.)], Bk I Chh. 32-34; Bk III Chh. 1-5

Pedro Mexía  *The imperial historie: Or, the lives of the emperours, from Julius Caesar, the first founder of the Roman Monarchy* (1547), tr.W.T. (London, 1623), Lives of Julius Caesar, Constantine the Great, Charlemagne, Charles V [EEBO]

Francisco de Vitoria  *On the American Indians* (1539) in A. Pagden and J. Lawrance eds., *Vitoria: Political writings* (Cambridge: CUP 1992)

Domingo de Soto  *Is any man lord of all the world?*, from *On justice and right* (1556) [CamTools]


Bartolomé de las Casas  *Doce dudas* (1564) ed. J. P. Lassegue, in *Obras Completas* Vol. 11.2 (Madrid 1992) (excerpts on CamTools)

Guaman Poma de Ayala  *The first new chronicle and good government*, abridged and translated by David Frye (Hackett 2006): Introduction and ‘Conclusions’

**Secondary reading**

**Context**

D.A. Brading  *The first America: The Spanish monarchy, Creole patriots and the liberal state, 1492-1867* (Cambridge 1991)

J.H. Elliott  ‘The mental world of Hernán Cortes’, *TRHS* 17 (1967)

J.H. Elliott  ‘A Europe of composite monarchies’, *Past and Present*, 137 (1992), 48-71; and reprinted in:


J.H. Elliott  *Empires of the Atlantic world. Britain and Spain 1482-1830* (Yale 2006), Ch. 3

**Revival of empire**


T.J. Dandelet  *The renaissance of empire in early modern Europe* (Cambridge 2014)

J. R. Jones  *Antonio de Guevara* (Boston 1975)
R. Kagan  
*Clio and the crown: The politics of history in medieval and early modern Spain* (Baltimore: Johns Hopkins 2009)

Anthony Pagden  
*Lords of all the World: Ideologies of Empire in Spain, Britain and France c. 1500-1800* (New Haven and London, 1995), chs 1-2

D. Perry  

J.G.A. Pocock  
*Barbarism and religion*, vol. III (Cambridge 2003), Ch. 2 (Pedro Mexía)

M. Tanner  
*The last descendant of Aeneas. The Habsburgs and the mythic image of the emperor* (New Haven: Yale 1993)

F. Yates  
*Astraea. The imperial theme in the sixteenth century* (London 1975), I. ‘Charles V and the idea of empire’

**Scholastic critique and alternative vision of the world**

A. Brett  
*Liberty, right and nature* (Cambridge 1997), Ch. 4

A. Brett  
‘Scholastic political thought’, in A. Brett and J. Tully eds., *Rethinking the foundations of modern political thought* (Cambridge 2006) (second half)

A. Brett  
*Changes of state. Nature and the limits of the city in early modern natural law* (Princeton 2011), Ch. 1, 3 (second half), 8 (all on law of nations)

M. Koskenniemi  
‘Empire and international law: the real Spanish contribution’, *University of Toronto Law Journal* 61, (2011)

D. Lupher  

A. Pagden  
*The fall of natural man* (Cambridge 1982)

**Jurisdiction and empire in Spanish America**

R. Adorno  
*The polemics of possession in South American narrative* (Yale 2007)

S. Belmessous ed.  

L. Benton  
*Law and colonial cultures. Legal regimes in world history, 1400-1900* (Cambridge 2002)

L. Benton and R. Ross eds., *Legal pluralism and empires, 1500-1850*, Chs. 1 and 5
4 Universal Monarchy: the ideal and its critics

Modern historians now understand the political map of early Modern Europe to have been dominated by composite monarchies, not independent nation states. Among these composite states were the Holy Roman Empire, and the Spanish, French and British monarchies. This topic investigates the range of concepts which contemporaries used to understand these monarchies. We shall see that the concept of empire, imperium, was not easily adapted for the purpose. Only one European ruler was entitled to call himself Emperor, and while other kingdoms characterised themselves as ‘imperial’, the concept did not denote a particular form of state. Instead, monarchic ambition was characterised by the terms dominus mundi and ‘Universal monarchy’. After Charles V, both Phillip II of Spain and Louis XIV of France had moments of opportunity when attainment of ‘universal monarchy’ seemed possible: texts by Botero, Campanella and Bacon address the conditions under which such great monarchies might enlarge and then secure their territories. Critics of universal monarchy are represented by Sully, Lisola and Andrew Fletcher. As the Habsburgs’ publicists emphasised, however, alternative models for peace in Europe, such as Sully’s ‘Grand Design’, could easily be taken for but another form of hegemony.

Texts


Tommaso Campanella, *A discourse touching the Spanish Monarchy* (c. 1600-1), trans. E. Chilmead, (London, 1654, repr. 1660) [UL, EEBO]: Translator to the Reader; Author’s Preface; chs 1 – 10. [pdf on Moodle]


Franz von Lisola, *The buckler of state and justice against the design manifestly discovered of the universal monarchy* (London, 1667) [UL, EEBO]: Preface, Articles I, VI [pdf on Moodle]

Andrew Fletcher, ‘A Discourse concerning the affairs of Spain’ (1698), in *Andrew Fletcher: Political Works*, ed. J. Robertson (Cambridge, 1997), 83-117; also contains *A Speech upon the state of the nation in April 1701*, pp. 118-28.

Secondary reading

Context
J.H. Elliott  
*Spain, Europe and the Wider World 1500-1800* (New Haven and London, 2009), Chs 1-2, 5-11

Brendan Simms  

Geoffrey Parker  

Frances Yates  
*Astraea. The Imperial Theme in the Sixteenth Century* (London 1975), Part III: ‘The French Monarchy’

Noel Malcolm  

Peter Burke  

The debate

Franz Bosbach  

James Muldoon  
*Empire and Order. The Concept of Empire 800-1800* (Basingstoke, 1999), Ch 6 and Conclusion.

Anthony Pagden  

John Headley  
*Tommaso Campanella and the Transformation of the World* (Princeton, 1997), Ch 6

Noel Malcolm  

Andrew Mansfield  
‘Émeric Crucé’s “Nouveau Cynée” (1623), Universal Peace and Free Trade’, *Journal of Interdisciplinary History of Ideas*, vol. 2, no. 4 (2013), pp. 1-23

Richard Tuck  

Markku Peltonen  

Steven Pincus  
5 Concepts of Union: the example of the Anglo-Scottish Union Debates

The great majority of European states were not only composite, they were also more or less formal unions. Two monarchies which were formally constituted unions were the Polish-Lithuanian Commonwealth (by the Union of Lublin in 1569), and, after a century of debate and conflict following dynastic union under the Stuarts, Great Britain (in 1707). Both of these were ‘incorporating’ unions. By contrast, the city-states of the northern Netherlands and the Swiss Cantons formed themselves into equal, ‘confederal’ unions, respectively the United Provinces (or ‘States’) of the Netherlands, and the Helvetic League. But the most persistent and thorough-going attempt to explore and test the available concepts of union occurred in Britain in the course of the century between James VI of Scotland’s accession to the English crown in 1603 and the achievement of incorporating parliamentary union in 1707. The reading for this topic includes selections from the most conceptually sophisticated contributions to the ensuing debate, by James I himself, by Francis Bacon and Henry Savile, and by the Scottish jurist Thomas Craig and the independent republican Andrew Fletcher. A feature of this debate was its comparative perspective: it opens a window onto unions throughout Europe.

Texts

James I


Thomas Craig

A Treatise on the Union of the British Realms, translation of De Unione Regnorum Britanniae Tractatus (1605), ed. C.S. Terry (Edinburgh, Scottish History Society, 1909), Chs 5, 6, 11

Francis Bacon

A Brief Discourse touching the Happy Union of the Kingdoms of England and Scotland (1603), in Works of Francis Bacon, X, 89-99

Anon (Scottish)

‘A Treatise about the Union of England and Scotland’

Henry Savile

‘Historicall Collections’


Andrew Fletcher

Speeches by a Member of Parliament (1703), Speeches I - XII; An Account of a Conversation concerning a Right Regulation of Governments for the common Good of Mankind (1703), in Andrew Fletcher: Political Works, ed. Robertson, 129-57, 175-215

William Seton

Scotland’s Great Advantages by an Union with England (1706) [pdf on Moodle]
Secondary

General

Jon Arrieta (ed) *Forms of Union: the British and Spanish Monarchies in the Seventeenth and Eighteenth Centuries, Riev* (Basque Studies Society, 2009) Pdfs of the following articles on Camtools:

Arrieta: ‘Forms of Union: a comparative analysis’

Robertson: ‘The conceptual framework of Anglo-Scottish Union’


J.G.A. Pocock *The Discovery of Islands. Essays in British History* (Cambridge, 2005), Parts I – II (Chs 1–10)


The Polish-Lithuanian Union

H.E. Dembkowski *The Union of Lublin. Polish Federalism in the Golden Age* (Boulder and New York, 1982)

Robert Frost ‘Union as process: confused sovereignty and the Polish-Lithuanian Commonwealth 1385-1796’, in Mackillop and ÓSiochrú (eds), *Forging the State*, 69-92 [PDF on Moodle]


The Union of the Crowns 1603-1608

David Armitage *The Ideological Origins of the British Empire* (Cambridge, 2000), chs 1-5

Bruce Galloway *The Union of England and Scotland 1603-1608* (Edinburgh, 1986)


Roger Mason (ed) *Scots and Britons. Scottish Political Thought and the Union of 1603* (Cambridge, 1994), esp. Parts I, III, I

Incorporating Union 1707


Free cities, confederation, feudal dependence

The polities of sixteenth- and seventeenth-century Europe were so varied in their separate histories and legal structures that alert observers found it difficult to decide which were properly commonwealths and which were not; this confusion could have political consequences and was open to exploitation. Loose confederation could become statehood; citizenship and subjection inevitably became unstable where the existence of an independent polity itself was in question. Jean Bodin, the greatest theorist of sovereignty of the sixteenth century, famously denied that the Swiss cantons constituted a commonwealth. The boundary between internal and external political relations was similarly blurred: when did an alliance become a protectorate? This had been a legal grey zone for centuries and a particularly fertile one for French policies of aggrandizement. Classical Roman models of equal and unequal federation between *prima facie* independent powers provided one touchstone, the feudal relations of the ruler of one territory with the ruler of another as vassal to lord prompted further questions.

Texts

Jean Bodin  
Of the lawes and customes of a common-wealth [etc.], trsl. Richard Knolles (2nd ed., 1606), bk 1, chaps 6-7; available at Early English Books Online, images 30-41 (pages 46-69)

Alberico Gentili  
De iure belli libri tres, trsl. J. Rolfe (2 vols, Oxford 1933), vol. 2, bk II ch. 13; bk III chaps 14-18

Traiano Boccalini  
I Ragguagli di Parnaso, or Advertisements from Parnassus, in Two Centuries; with the Politick Touchstone, translated Henry, earl of Monmouth (London, 1657, also 1669, 1674): Advertisement VI: 'All the monarchies of the world affrighted at the over-great power and successfull proceedings of the German Commonwealths' (pp. 138-146 of the 1674 edition)
The Politick Touchstone: 'The Spanish Monarchy comes to Parnassus, and desires of Apollo to be cured of an issue, but is dismissed by the politick physicians', and 'The Spanish Monarchy goes to the Oracle of Delphos, to know whether she shall ever obtain the Universal Monarchy of the whole world, and receives a negative answer (pp. 256-62 of the 1674 edition)

Secondary reading

Bodin and Gentili

A.S. Brett  

P. Schröder  

B. Straumann  
‘The Corpus iuris as a Source of Law Between Sovereigns in Alberico Gentili’s Thought’, in Kingsbury and Straumann, 101-23

R. Tuck  
*Philosophy and government* (Cambridge 1992)

Boccalini

R. Tuck  
*Philosophy and government*, pp. 101-3

Feudal Allegiance

W.F. Church  

K. Davis  
*Periodization and Sovereignty. How Ideas of Feudalism and Secularization Govern the Politics of Time* (Pennsylvania 2008), ch. 1

D. Kelley  
‘De origine feudorum: The Beginnings of an Historical Problem’,  
*Speculum* vol. 39 no. 2, 1964, 207-28

7  The United Provinces, commercial empire and the high seas as a space of sovereignty

In 1603, the seizure by the Dutch East India Company (VOC) of the Portuguese carrack the *Sta. Catarina* off the coast of Johor (in present-day Malaysia) provoked intense examination of conscience among VOC shareholders. Could the seizure be justified? The young Hugo Grotius was commissioned to write a defence of the actions of the Dutch captain, a task which he chose to fulfil by arguing from first principles of natural law in his *De iure praedae* (*On the law of prize*). Part of that defence was the doctrine of the ‘freedom of the seas’, published separately as the pamphlet *Mare liberum* (*The free sea*) in 1609. This argument, that no state can claim individual sovereignty or jurisdiction over the high seas, was fiercely opposed by the Portuguese Serafim de Freitas. In this week’s readings we examine that
debate, looking at the sea as a contested space of sovereignty and at how this space entered into the
construction of sovereignty over land and peoples.

**Texts**

Hugo Grotius  
*De iure praedae*, ed. M. van Ittersum (Indianapolis: Liberty Fund 2006), esp. Chh. 2, 12, 13

Hugo Grotius  
*The free sea*, ed. D. Armitage (Indianapolis: Liberty Fund 2004) (this is Ch.12 of *De iure praedae*, modified for publication, tr. Richard Hakluyt)

Serafim de Freitas  
*De iusto imperio Lusitanorum Asiatico* (1625), short excerpts from Chh. 1-2, 10-11, 13-14, 17 [translation on Camtools]

Alberico Gentili  
*Hispanicae Advocationis Libri II* (New York: Oxford University Press 1921), Vol. II: Translation, Bk I, Ch. 8

**Secondary reading**

L. Benton  
*A search for sovereignty. Law and geography in European empires, 1450-1800* (Cambridge 2010), Chh. 1, 3

L. Benton  

M. Brito Vieira  
‘Mare liberum vs. mare clausum: Grotius, Freitas and Selden’s debate on dominion over the seas’, *Journal of the History of Ideas* 64 (2003)

H. Blom ed.  

P. Borschberg  

P. Borschberg  
*Hugo Grotius, the Portuguese, and free trade in the East Indies* (National University of Singapore 2011)

P. Borschberg  
‘From self-defence to an instrument of war: Dutch privateering around the Malay peninsula’, *Journal of Early Modern History* 17 (2013)

A. Brett  
*Changes of state. Nature and the limits of the city in early modern natural law* (Princeton 2011), Ch. 8

A. Brett  
‘The space of politics and the space of war in Hugo Grotius’s *De iure belli ac pacis*’, *Global Intellectual History* 1 (2016) (for comparison: is about land more than sea)

A. Fitzmaurice  
*Sovereignty, property and empire 1500-1800* (Cambridge 2014), Chh. 1-4

M. van Ittersum  
*Profit and principle. Hugo Grotius, natural rights theories and the rise of*
Dutch power in the East Indies  (Brill 2006)

I. Porras  
‘Constructing international law in the East Indian seas: Property, sovereignty, commerce and war in Hugo Grotius’s De iure praedae,’  *Brooklyn Journal of International Law* 31 (2006), 741-80

B. Straumann  
*Roman law in the state of nature. The classical foundations of Hugo Grotius’ natural law* (Cambridge 2014)

R. Tuck  
*Philosophy and government, 1572-1651* (Cambridge 1993), Ch. 5

R. Tuck  
*The rights of war and peace* (Oxford 1999), Ch. 3

R. Tuck  

8  
**The German Empire, before and after Westphalia**

The German Empire looked like a confederation, a monarchy, a mixture of monarchy and aristocracy, or – in the phrase of Samuel von Pufendorf – like a monster. Sovereignty seemed to be everywhere, in that the constituent states of the Empire appeared to possess it in the form usually described in German as *Landeshoheit*, or it seemed to reside solely with the emperor – a ruler widely seen to be incapable of ruling beyond his ancestral lands. The Peace of Westphalia (1648) established, for better or for worse, the legal relationship between these states. For centuries it has been regarded as the charter of inter-state sovereignty in Europe, but more recent scholarship has pointed to the informal, surprisingly un-theorized status of several organizations in Imperial territory even after Westphalia, including the Swiss Confederation.

**Texts**

Samuel von Pufendorf  


**Secondary reading**

 Historical Background

M. Hughes  
*Early Modern Germany 1477-1806* (Pennsylvania 1992), ch. 6

Constitutional Analysis

J.H. Franklin  
Friends and enemies, war and peace: the law of war in the sixteenth and seventeenth centuries

War was both the limit and at the heart of inter-state relations in the sixteenth and seventeenth centuries. The capacity to declare and to make war defined a state; for some writers, it defined (along with the capacity to legislate) a public rather than a private actor. And yet the dividing line between public and private was not always so clear, and, for some theorist, private warfare was also a legitimate activity. In this week’s readings we look at the law of war as a central mode in which state sovereignty and the international arena were theoretically constructed, looking both at general doctrines of legitimacy and at the more specific casuistry of making war and making peace.
Texts

Francisco de Vitoria  *On the law of war*, in A. Pagden and J. Lawrance eds., *Vitoria: Political writings* (Cambridge: CUP 1992)

Balthasar Ayala  *De iure et officiis bellicis et disciplina militari libri III* (Washington: Carnegie Institute 1912), Vol. II: Translation, Bk I Chh. 2, 5, 6, 9, II Chh. 5-9

Alberico Gentili  *De iure belli* (Oxford: Clarendon 1933), Vol. II: Translation, Bk I chh 1-16; Bk II chh. 1-2, 14-18; Bk III chh. 1-5, 8-10, 12, 15-19, 22-24

Hugo Grotius  *De iure belli ac pacis* (Oxford: Clarendon 1925), Vol. II: Translation, or ed. R. Tuck (Indianapolis: Liberty Fund), Bk I Ch. 1, Bk III [selected passages]

Samuel Pufendorf  *De jure naturae et gentium libri VIII* (Oxford: Clarendon 1934), Vol. II: Translation, Bk VIII, chh. 2, 6-9

Note: Vitoria’s *relectio* ‘On the law of war is short’, but the others are major texts. If you want to handle this topic by homing in on a detailed analysis of one particular text, then you are welcome to do so and the exam question will allow for this, although it will expect you to set your consideration of the particular author you have chosen within a broader analysis that shows some knowledge of the other texts.

Secondary reading

*Abbreviations:*

Asbach and Schröder = *War, the state and international law in seventeenth-century Europe*  
(Aldershot: Ashgate 2010)


Background

Asbach and Schröder  Part II (on war and state-formation, including taxation)

S. Neff  *War and the law of nations. A general history* (Cambridge 2005)

Theory and law of war


‘Alberico Gentili and the Ottomans’, in Kingsbury and Straumann

D. Panizza
‘Alberico Gentili’s De armis romanis: The Roman model of a just empire’, in Kingsbury and Straumann

P. Piirimae

‘Russia, the Turks and Europe: Legitimations of war and the formation of European identity in the early modern period’, JEMH 11 (2007)


‘Alberico Gentili’s doctrine of defensive war and its impact on 17th-century normative views’, in Kingsbury and Straumann

S. Recchia ed.
Just and unjust military intervention. European thinkers from Vitoria to Mill (Cambridge 2013), Chh, 2-4

D. Saunders
‘Hegemon history: Pufendorf’s shifting perspectives on France and French Power’, in Asbach and Schröder

P. Schröder
‘Taming the fox and the lion: Some aspects of the 16th century’s debate on inter-state relations’, in Asbach and Schröder

‘Vitoria, Gentili, Bodin: Sovereignty and the law of nations’, in Kingsbury and Straumann

R. Tuck
The rights of war and peace (Oxford 1999), Chh. 1-5

Practice and casuistry of peace

C. Kampmann
‘Peace impossible? The Holy Roman Empire and the European state system in the seventeenth century’, in Asbach and Schröder

R. Lesaffer
‘Alberico Gentili’s ius post bellum and early modern peace treaties’, in Kingsbury and Straumann

R. Lesaffer ed.
Peace treaties and international law in European history. From the middle ages to world war one (Cambridge 2004), Chh. 2, 5, 9-10

A. Alimento ed.
War, trade and neutrality. Europe and the Mediterranean in the 17th and 18th centuries (Milan: FrancoAngeli 2011), chh. by Alimento, Stapelbroek

10 The law of nations and the international order in the eighteenth century

This topic looks at the developed ‘state system’ of eighteenth-century Europe as articulated in the work of two major theoreticians of the ‘law of nations’, Christian Wolff and Emer de Vattel. It looks at how that international world was both legitimated in juridical and political theory, but also intellectually
constructed through the practices of diplomatic mediation and negotiation as well as of war, treading a fine line between vocabularies of the ‘lawful’ and non-legal vocabularies of raison d’état.

**Texts**


Emer de Vattel  *The Law of Nations* [1758], trans. Charles G. Fenwick (Washington: Carnegie Institution, 1916), or ed. B. Kapossy and R. Whatmore (Indianapolis: Liberty Fund 2008), Preliminaries; Bk I Chh. 1-4, 8, 11, 14, 18, 23; Bk II Chh. 1-4, 9; Bk III Chh. 1, 3, 6-7, 11-12; Bk IV Ch. 1 (available online)

**Secondary reading**

Abbreviation: Chetail and Haggenmacher = V. Chetail and P. Haggenmacher eds., *Vattel’s international law from a XXIst century perspective* (Leiden: Brill 2011)


M. Koskenniemi  ‘International law and raison d’état’ in Kingsbury and Straumann eds., *Roman foundations of the law of nations*

M. Koskenniemi  ‘“International community” from Dante to Vattel’, in Chetail and Haggenmacher

J.C. Laursen ed.  *New essays on the political thought of the Huguenots of the Refuge* (Leiden: Brill 1995), Ch. 2 (for Barbeyrac, Burlamaqui and Vattel)

R. Lesaffer  ‘A schoolmaster abolishing homework? Vattel on peacemaking and peace treaties’, in Chetail and Haggenmacher


N. Onuf,  *The republican legacy in international thought* (Cambridge: CUP 1998), esp. Ch. 3 for Wolff

J. Pitts  ‘Intervention and sovereign equality: Legacies of Vattel’, in S. Recchia ed., *Just and
and unjust military intervention. European thinkers from Vitoria to Mill (Cambridge 2013)


11 Universal Monarchy and Commerce in the Eighteenth Century

In the eighteenth-century the debate over universal monarchy was transformed by a new appreciation of the potential of commerce to re-shape relations between states. Optimists, led by Montesquieu, believed that ‘doux commerce’ had laid the bogey of universal monarchy for good; by contrast, the harder-headed Scots David Hume and Adam Smith feared that commerce was creating new incentives for conflict – and public indebtedness. Even as the threat of universal monarchy was discounted, however, the example of ancient Rome remained pertinent – and disputed: while the historian Gibbon believed that the Roman Empire would never be replicated, Adam Ferguson maintained that military despotism was the likeliest fate of commercial monarchies which did not uphold civic virtue – a prognosis that the French Revolution would be taken to vindicate.

Texts

Montesquieu Considerations on the Causes of the Greatness of the Romans and their Decline, trans and ed. D. Lowenthal (Indianapolis: Hackett, 1999) [18C translations on ECCO]


Secondary

General


Anthony Pagden *Lords of all the World: Ideologies of Empire in Spain, Britain and France c. 1500-1800* (New Haven and London, 1995), chs 5-6

Montesquieu


Paul A. Rahe ‘The book that never was: Montesquieu’s *Considerations on the Romans* in historical context’, *History of Political Thought*, 26 (2005), 43-89


Hume


Adam Smith


12 Confederation, federation and perpetual peace in the Eighteenth Century

The new focus on commerce likewise transformed the discussion of the alternatives to imperial monarchy, revitalising the idea of confederation, or federations of states, as the basis for projects of European peace. A fresh starting-point for the discussion was provided by the Abbé de Saint-Pierre’s sprawling Project for perpetual peace, whose arguments were influentially summarised and criticised by Rousseau. Across the Atlantic, debate over a new constitution for the United States led Hamilton and Madison to undertake a sustained historical critique of confederations, before framing a new and strikingly original conceptual distinction between confederal and federal union. Faced with the French Revolution, however, Kant stopped short of offering a similar federal union as the basis for his celebrated plan for perpetual peace, proposing instead a new version of equal, confederal union. This in turn provoked a series of responses from J.G. Fichte. Fearing the consequences of French domination of Europe, Fichte drew still further back, arguing that Germany should become a ‘closed commercial state’: only a union based on economic self-sufficiency would secure its states’ independence of the new imperialism of France and Britain.

Texts


‘The state of war’ is also in V. Gourevitch (ed), The Social Contract and other later Political Writings (Cambridge, 1997), pp. 162-176.

Kant


J.G. Fichte


J.G. Fichte


**Secondary**

**Saint-Pierre and Rousseau**

Tomaz Mastnak


Peter Schröder

‘The Holy Roman Empire as Model for Saint-Pierre’s *Projet pour render la Paix perpétuelle en Europe*’, in R. Evans and P. Wilson, eds., *The Holy Roman Empire, 1495-1806: A European Perspective* (Leiden, 2012), 35-50 (which is available as an EBook)

Céline Spector


*Principes du droit de la guerre, Ecrits sur le Projet de Paix Perpétuelle de L’abbé de Saint-Pierre*, Blaise Bachofen and Céline Spector, eds. (Paris, 2008), 229-294


Nick Childs


Stella Ghervas


Bela Kapossy

*Iselin contra Rousseau* (Basle, 2006), chapter 3, pp. 173-245

Patrick Riley

‘Rousseau as a theorist of national and international federalism’, *Publius*, 3 (1973), 5-17
Michael Sonenscher  *Before the Deluge* (Princeton, 2007), 108-120

Elizabeth V. Souleyman  *The Vision of World Peace in Seventeenth- and Eighteenth-Century France* (New York, 1941)

Richard Tuck  *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford, 1999), 197-207: The Hobbesianism of Rousseau.

**America**

Terence Ball and J. G. A. Pocock, eds.  *Conceptual Change and the Constitution* (Lawrence, 1988): chs by Onuf, Pocock

Eliga H. Gould  *Among the powers of the earth* (Cambridge, Mass., 2012)

David C. Hendrikson  *Peace Pact. The lost world of the American Founding* (Lawrence, Kansas, 2003)


Anthony Pagden  *Lords of all the world: Ideologies of Empire in Spain, Britain and France c. 1500-1800* (New Haven and London, 1995), ch 7


**Kant**

J. Bohman and M. Lutz-Bachmann  *Perpetual Peace: Essays on Kant’s Cosmopolitan Ideal* (Cambridge, MA, 1997)

Pauline Kleigeld  *Kant and Cosmopolitanism* (Cambridge, 2011)

SankarMuthu  *Enlightenment against Empire* (Princeton, 2003), Ch. 5: Kant’s anti-imperialism

Richard Tuck  *The Rights of War and Peace*, pp. 207-225: ‘The Hobbesianism of Kant’

Beyond the Sovereign’s Reach? Companies & Convicts

Imperial ‘sovereigns’ were never fully sovereign. Rather, in the course of building and maintaining empires metropolitan authorities not only incorporated and recognized the rights of certain pre-existing political bodies, they repeatedly went so far as to constitute and consecrate new bodies that then went on to challenge the center’s oversight and control. Two of the most striking eighteenth-century examples were monopoly joint-stock trading companies and penal colonies, each of which posed a distinctive challenge to metropolitan authority and a puzzle concerning the legitimate interaction of legislative and executive powers projected across vast space.

Texts


Secondary reading

Lauren Benton and Lisa Ford, Rage for Order: The British Empire and the Origins of International Law, 1800–1850 (Harvard, 2016) (especially the introductory chapter, ‘A Global Empire of
Law’, and the closing chapter, ‘A Great Disorder’) (extracts to be posted on Moodle for anyone having difficulty accessing the copy in the UL).


Jennifer Pitts, *A Turn to Empire: The Rise of Imperial Liberalism in Britain and France* (Princeton, 2005), ch. 3.


Nicolas B Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: 2006).


Convicts:


14 Empire and Confederation in Napoleon’s Europe

Between 1800 and 1820 the map of Europe was redrawn several times: the old Holy Roman Empire was abolished, and a new sort of continental Empire founded, lost and replaced by a system of alliances that appeared both to re-establish the pre-revolutionary balance of power and to announce the dawn of a new age of international diplomacy. This topic examines the arguments for and against Napoleon’s challenge to the prior European order, as well as disagreements over how to interpret the resulting settlement and what would be required to re-establish the possibility of peace in a post-Revolutionary Europe. Among the innovations of this period are those that would inspire later theories of ‘Realpolitik’ and ‘realist’ international relations, but at the time they were both criticized and defended also in the languages of political and religious principle. The Napoleonic wars and their aftermath dramatically illustrated how political contests over internal and external power could be inextricably linked, so that neither could be durably solved without at the same time solving the other.

Texts


**Supplementary suggested text (optional):**

J.G. Fichte, *Addresses to the German Nation* (Indianapolis, 2013), especially addresses #1, 6, 13-14

**Secondary reading**


J. Pitts, ‘Constant’s Thought on Slavery and Empire’, in Rosenblatt (ed), *Cambridge Companion to Benjamin Constant* (Cambridge, 2009), pp. 115-145


## 15 The Constitution of Cádiz and Spanish American Independence

When Napoleon overturned Spain’s Bourbon monarchy in 1808 to install his brother on the throne, he unleashed a chain of events that led to the collapse of the Spanish American empire. The liberal 1812 Constitution of Cádiz offered colonies representation in the Spanish Cortes, but the peninsular power proved incapable of stifling rebellions after Ferdinand VII’s restoration in 1814, and itself fell to revolution in 1820. This is not a story of fully-formed nations wresting their independence from foreign tyrants, but of the opening of a vacuum of final authority that invited players on the ground in the Americas to fashion new forms of sovereignty wherever and however they could manage. We consider the range of forms, from trans-Atlantic representative assemblies to confederations of independent townships, that were explored before borders borders were finally settled through war, and the translation of racial, ethnological and civilizational categories into patterns of citizenship and political inclusion. Across these developments, we examine how enlightenment and revolutionary ideals drawn both from French and English examples and from the Spanish Enlightenment were recombined and redeployed for new ends in a changed political context.

### Texts


José María Luis Mora, ‘Discourse on the Independence of the Mexican Empire’ (1821), ‘Discourse on the Limits of Civil Authority Deduced from Their Source’ (1827), ‘On the Means Ambition Uses to Destroy Liberty’ (1827), and Mora/Alberto Lista, ‘Discourse on Public

Secondary reading

Anthony Pagden, Spanish Imperialism and the Political Imagination: Studies in European and Spanish American Social and Political Theory, 1513-1830 (New Haven, 1990), chs. 4-5.

Anthony Pagden, Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500-c.1800 (New Haven, 1995), ch. 4.


José Carlos Chiaramonte, Nation and State in Latin America: Political Language During Independence (Buenos Aires, 2010).


Tamar Herzog, ‘Communities Becoming a Nation: Spain and Spanish America in the Wake of Modernity (and Thereafter)’, Citizenship Studies 11, no. 2 (2007): 151-172.

Jordana Dym, From Sovereign Villages to National States: City, State, and Federation in Central America, 1759-1839 (Albuquerque, 2006).


Jeremy Adelman, ‘Iberian Passages: Continuity and Change in the South Atlantic,’ in The Age of Revolutions in Global Context, David Armitage and Sanjay Subrahmanyam, eds. (Basingstoke, 2010).


Gabriel Paquette, ed., Enlightened Reform in Southern Europe and its Atlantic Colonies, c. 1750-1830 (Farnham, 2009)

Gabriel Paquette, Enlightenment, Governance, and Reform in Spain and its Empire, 1759-1808. (Basingstoke: 2008)

Lauren Benton and Lisa Ford, Rage for Order: The British Empire and the Origins of International Law, 1800–1850 (Harvard, 2016) ch, 6 ‘An Empire of States’ pp. 164ff (focuses on the Rio de la Plata, a region not at the forefront of the set texts for this topic, but the Benton/Ford treatment is interesting on the interaction of Latin American state making and enduring
European empires) (extracts to be posted on Moodle for anyone having difficulty accessing the copy in the UL).


On Bolívar:

David Brading, Classical Republicanism and Creole Patriotism: Simón Bolívar (1783-1830) and the Spanish American Revolution (Cambridge, 1983).


On Portugal and Brazil:

Gabriel Paquette, Imperial Portugal in the Age of Atlantic Revolutions: The Luso-Brazilian World, c. 1770-1850 (Cambridge, 2013).


16 Slavery and Independence in Political Thought in the Age of Revolutions

Issues of slavery, citizenship and independence were nowhere more tightly intertwined than in the West Indies; we focus on this region, rather than the more familiar North American case, including the spectacular revolution in Haiti that saw a slave revolt defeat the armies of Napoleon’s Empire. It is widely known that arguments over abolition often turned on appeals to economic efficiency, sentiment, or religion, but our interest is in what these debates revealed about the contested nature of imperial citizenship and sovereignty at the turn of the nineteenth century. In Haiti rebels proclaimed fidelity to French revolutionary values as they won their right to found their own Empire separate from Napoleon’s. And in the British West Indies planters and metropolitan officials struggled over the question of whether or not the Empire had the right to free its subjects’ slaves. In both cases the relationship between ‘empire’ and ‘independence’ was complex and itself an object of political struggle.

Texts


**Secondary reading**

**General**


French Debates, Toussaint L’Ouverture, & the Haitian Revolution:


Raynal, Diderot, and the *Histoire des deux Indes*:


Condorcet & Slavery:


David Williams, *Condorcet and Modernity* (Cambridge, 2004), especially 139-171.


The Abolition Debate in the British West Indies:


Seymour Drescher, Abolition: A History of Slavery and Anti-Slavery (Cambridge, 2009), 115-244.
