Research Note

The Unseen History of International Law: A Census Bibliography of Hugo Grotius's *De iure belli ac pacis*

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Abstract

This research note announces and briefly describes a new five-year project to prepare a census bibliography of the first ten editions of Grotius's *De iure belli ac pacis* (IBP). The resulting book will be published in 2025, the 400th anniversary of IBP's first appearance. The project is sponsored by the Deutsche Forschungsgemeinschaft and hosted by the Max Planck Institute for Comparative Public Law and International Law in Heidelberg.

Keywords

DIBP – census bibliography – book history

Thanks to the generous support of the Deutsche Forschungsgemeinschaft, in October 2019 the Max Planck Institute for Comparative Public Law and International Law in Heidelberg launched a five-year project to uncover an aspect of the history of international law by examining all surviving copies of the first ten editions of Grotius's seminal *De iure belli ac pacis* (IBP). The ambition is to

publish the resulting census bibliography in 2025, the 400th anniversary of IBP's first publication, under the (provisional) title, *The Unseen History of International Law: A Census Bibliography of Hugo Grotius's De iure belli ac pacis*.

IBP has been generally regarded as the inception of modern international law ever since its first edition in 1625. The first generation of readers valued IBP for its lucid systematisation of legal doctrine and irenic potential. In the middle of the Thirty Years' War, one of the most traumatic conflicts in European history, IBP removed religion from international law, offering warring factions a common moral foundation and procedural standards and rules for negotiation. In terms of the disciplinary genealogy and professionalisation, the first chair in public international law was established to expound IBP, and given to Samuel Pufendorf in Heidelberg. For centuries, commentaries, expositions and other forms of engagement with IBP dominated international law scholarship. A very large portion of what we now regard as primary sources in international law was originally written as secondary literature on IBP; and all major international law scholars had engaged with IBP since its first appearance in 1625. At key moments, including the demise of the Holy Roman Empire, the fall of Napoleon and the end of both world wars, multinational projects were devoted to restarting international law by reissuing IBP with extensive new commentaries.

What if we could see and systematise all the annotations that thousands of statesmen, diplomats, and international law scholars have left in their copies over the last 400 years? Our project's premise is that despite the enormous literature on IBP's reception and influence, we cannot understand its impact without uncovering the history of IBP as a physical object, with thousands of unpublished annotations arguing or agreeing with the text, and updating and adapting its contents. Though a great deal has been written about the iconic role of IBP, what has never been done is a census bibliography that locates and examines every surviving copy, and documents and analyses readers' annotations, and the copies' dissemination and movement over time.

This approach to the material conditions of knowledge production is relatively new: only three comprehensive census bibliography projects have been completed. Gingerich's 2002 census of Copernicus's 1543 *De revolutionibus* revealed that, though one could not tell from their publications, leading Protestant theologians formed study groups around the work that replaced the Ptolemaic system with a heliocentric view of the universe.¹ The 2012 census of Shakespeare First Folios (1623) by Rasmussen and West raised the number of known copies by almost 50%, and enriched our knowledge of book production,

1 Owen Gingerich, *An Annotated Census of Copernicus' De revolutionibus* (Brill, 2002).

promotion, and trade.² The third census, published in 2018, focused on Vesalius's *De humani corporis fabrica*, which overturned thirteen centuries of Galenic orthodoxy and turned anatomy into a visual and empirical science. The census showed that contrary to existing scholarship, the first generation of readers did not understand the visual representation of anatomy that seems intuitive to us now; that they paid more attention to theology than anatomy, searching for instance for angels and the soul in woodcuts of dissected brains; and that even though the book was put on the papal Index, practical censorship was almost non-existent, suggesting that the need for improved medical knowledge overrode doctrinal objections.

Each of these censuses galvanised and transformed their field, but they remain rare. Finding every copy of a book poses complex challenges, from ploughing through offline and online library catalogues and compiling questionnaires for librarians in numerous languages before systematising their responses, through collecting, transcribing, and adding metadata to images of tens of thousands of annotations, personalised bindings and provenance marks, to tracing the movement of copies across the centuries, often between private and public owners, and despite major disruptions such as wars, nationalisation, and privatisation.

Dániel Margócsy, Stephen Joffe and I spent almost four years researching and co-writing the Vesalius census. Over the years, and thanks to the advice and support of hundreds of scholars around the world, we developed cutting-edge methods. We also published preliminary findings in *Nature*, *Slate*, the *Lancet* and various book history journals, before the full census came out.³ In terms of data collection, we learned to use online catalogues critically, and to correct errors through physical examination, old card catalogues, acquisition records, and so forth. We learned about the type of institutions, from monastic libraries through municipal fraternities to very old elementary schools, that seldom add their catalogues to national union catalogues. We painstakingly built a network of sympathetic wealthy private collectors and auction houses, which gave us invaluable access to a world of rare books normally hidden from public view.

In terms of analysis, in addition to transcribing and translating the copious annotations that readers left in their copies over the centuries, we developed ways to evaluate non-verbal notes, which comprise a significant portion of

2 Eric Rasmussen and Anthony J. West, *The Shakespeare First Folios: A Descriptive Catalogue* (Palgrave Macmillan, 2012).

3 Dániel Margócsy, Mark Somos and Stephen Joffe, *The Fabrica of Andreas Vesalius: A Worldwide Descriptive Census, Ownership, and Annotations of the 1543 and 1555 Editions* (Leiden: Brill, 2018).

annotations that previous censuses ignored. The notes that giants of international law, such as John Selden, Samuel Pufendorf, Christian Wolff, Emer de Vattel, Immanuel Kant or Friedrich Carl von Savigny made in their copies of IBP – if we find them – will become meaningful data in the DIBP census not only when these scholars inscribed textual marginalia in their copies, but also by comparing the frequency of their manicules, underlinings, and other emphases on particular DIBP passages with frequencies across all surviving copies. This method will also show which parts of DIBP attracted most readers' attention in a given century and country. The same method for Vesalius yielded the surprising result that early readers of anatomy were more interested in finding the material seat of the soul than in healing the body. Furthermore, we devised a way to map and track copies across centuries, and correlate them with historical trends such as the centralisation and fragmentation of states, the nationalisation of monastic libraries, the professionalisation and institutionalisation of disciplines, and the rise of books as status symbols.

The Vesalius project covered the two editions published during the author's lifetime, to ensure fidelity to the author's intention and the census's feasibility, and to prevent confusion in charting influence by excluding posthumous redacted, annotated, or otherwise dissimilar editions. The IBP census will do the same for the first ten editions: seven published in Grotius's lifetime (1625 Paris [in three states], 1626 Frankfurt, 1631 Amsterdam, 1632 two rival editions in Amsterdam, 1633 Amsterdam, 1642 Amsterdam) and three editions after his death, including the first one after the Treaty of Westphalia (1646 Amsterdam, 1647 Amsterdam, 1650 Amsterdam).

This is an ambitious undertaking, warranted by the subject's importance and our track record, which proves its feasibility. While it is impossible to predict the project's outcome, it is reasonable to expect results that will profoundly transform our understanding of the history of international law. Not only has IBP been seen as the foundation of modern international law ever since its first publication, and its reception never studied through its materiality, but a pilot project has yielded outstanding results. In 2017 Dániel and I tested the potential of the IBP census by collecting information about all surviving copies of Grotius's 1609 *Mare liberum*, known as the iconic formulation of the right to free trade, and reissued with IBP in 1625.⁴ The published study revises the existing literature on *Mare liberum*, showing for instance that it had three, not two editions in 1609, that it was read most avidly in German free ports, and that despite the papal ban on *Mare liberum*, one edition may have been produced by Jesuits in Latin America: crucial facts unknowable from any source other

4 Mark Somos and Dániel Margócsy, "Pirating Mare Liberum (1609)," *Grotiana* 38 (2017), 176–210.

than a comprehensive census of physical copies. The annotations, patterns of dissemination, and previously unknown edition discovered during the *Mare liberum* census are further reasons to expect the IBP census to break new ground.

Moreover, a preliminary examination of 25 copies of IBP itself – a very small sample – suggests the same. Of these 25 copies, 16 are annotated beyond mere provenance marks. Although the copies belong to the abovementioned 10 editions, published between 1625 and 1650, the annotators range over four centuries, from Grotius's contemporaries to twentieth-century figures. They include Grotius himself, who donated an annotated copy of a 1632 edition to Henricus Vegetius (1587–1659), a Hamburg diplomat and lawyer; Remigius Faesch (1595–1667), Rector and professor of law at Basel, who covered his copy of the same 1632 edition with marginalia while he prepared his law courses on DIBP; a thousand meticulous annotations in red, green and black ink in a 1650 edition by a late seventeenth-century reader interested in adaptations of DIBP by Hermann Conring, Henning Arnisaeus, resistance theorists, and later editors of texts Grotius used, especially Maimonides; the heavily annotated 1626 copy that Andrew Eliot (1718–78) used while a Harvard student, revealing his indebtedness to Grotius when he justified the American Revolution in his sermons; the Scottish Colin McKenzie, who around 1698 wrote hundreds of tiny cross-references to other legal material in his 1632 copy when he studied law in Leiden; or Guido Kisch (1889–1985), the Prague judge, then Leipzig professor of legal history, Königsberg professor of legal history and political theory, eventually law professor at Basel, whose dozens of annotations were nearly obliterated by a book dealer who thought that a clean-looking copy of a 1632 IBP would fetch a higher price. A 1650 copy, with marginalia by a nineteenth-century German reader, was also heavily annotated by Heinrich Lammasch (1853–1920), professor of criminal and international law, member of the Permanent Court of Arbitration and the last Minister-President of Austria. Next to Grotius's 1625 explanation that he wrote IBP because some states treat international law as an empty word, Lammasch heartbreakingly wrote "1914.⁵ If a first look at these 25 copies, out of at least 5,000 total copies of the ten 1625–1650 editions, reveal such frequent and important annotations, there is no doubt that the full census has a tremendous potential to change our understanding of Grotius's unfolding influence on the historical trajectories of international law.

5 Grotius's donation to Vegetius: Herzog August Bibliothek, Wolfenbüttel, M: Rq 333. Faesch: Basel Universitätsbibliothek UBH Na X 2. 1650 IBP, with thousands of legal cross-references: Herzog August Bibliothek Rq 336. Andrew Eliot: Harvard Law School Special Collections, Rare C 65 24.4. McKenzie: Houghton Library GEN Int 940.1.5*. Lammasch: Harvard Law School Special Collections, Rare C 65 30; Kisch: Boston College Law Library, RBR 165.355.

Grotius's own donation note. With many thanks to Felix Kommnick and the Herzog August Bibliothek, Wolfenbüttel

Atque eo magis necessaria est hæc opera, quod & nostro sæculo non
 defunt, & olim non defuerunt qui hanc juris partem ita contemne-
 rent, quasi nihil ejus præter inane nomen existeret. In omnium ferme
 ore est Euphemi dictum * apud Thucydidem, regi aut civitati impe-
 rium habenti, nihil injustum quod utile: cui simile illud, in summa
 fortuna id æquius quod validius, & rempublicam sine injuria geri
 non posse. Accedit quod quæ inter populos aut reges incidunt con-
 troversiaæ ferme Martem habent arbitrio. Est autem non vulgitan-
 rum hæc opinio, verum ab omni jure abesse longissime, sed & viris
 doctis ac prudentibus sæpe dicta excidit, quæ talem opinionem fo-
 veant. Nihil enim frequentius quam opposita inter se, jus & arma.

1914

Heinrich Lammasch's copy. With many thanks to Mary Person and Harvard Law School Special Collections

If this ambitious and innovative project succeeds, international law will become the fourth field, after cosmology, drama, and medicine, illuminated by a census bibliography of the iconic work that shaped the field up to and beyond the present day. We are very excited to begin this five-year project, and fervently hope that readers of *Grotiana* will follow our findings and advise us throughout.