

THE OXFORD HANDBOOK OF

---

THE HISTORY OF  
INTERNATIONAL  
LAW

---

*Edited by*

BARDO FASSBENDER

*and*

ANNE PETERS

*Assistant Editors*

SIMONE PETER

DANIEL HÖGGER

OXFORD  
UNIVERSITY PRESS

# CONTENTS

---

<i>Table of Instruments</i>	xiii
<i>Notes on the Contributors</i>	xxxv

Introduction: Towards a Global History of International Law BARDO FASSBENDER AND ANNE PETERS	1
---	---

## PART I: ACTORS

1. Peoples and Nations JÖRG FISCH	27
2. States: Rise and Decline of the Primary Subjects of the International Community ANTONIO CASSESE	49
3. Peace Treaties and the Formation of International Law RANDALL LESAFFER	71
4. Minorities and Majorities JANNE E NIJMAN	95
5. <i>Hostes humani generis</i> : Pirates, Slavers, and other Criminals JOAQUÍN ALCAIDE FERNÁNDEZ	120
6. International Arbitration and Courts CORNELIS G ROELOFSEN	145
7. International Organizations: Between Technocracy and Democracy ANNE PETERS AND SIMONE PETER	170
8. Peace Movements, Civil Society, and the Development of International Law CECELIA LYNCH	198

## PART II: THEMES

9. Territory and Boundaries	225
DANIEL-ERASMUS KHAN	
10. Cosmopolis and Utopia	250
DOMINIQUE GAURIER	
11. Peace and War	272
MARY ELLEN O'CONNELL	
12. Religion and Religious Intervention	294
ANTJE VON UNGERN-STERBERG	
13. The Protection of the Individual in Times of War and Peace	317
ROBERT KOLB	
14. Trade, Chartered Companies, and Mercantile Associations	338
KOEN STAPELBROEK	
15. The Sea	359
DAVID J BEDERMAN	

## PART III: REGIONS

I. AFRICA AND ARABIA	383
16. Africa North of the Sahara and Arab Countries	385
FATIHA SAHLI AND ABDELMALEK EL OUAZZANI	
17. Africa	407
JAMES THUO GATHII	
18. Ottoman Empire	429
UMUT ÖZSU	
II. ASIA	449
19. China	451
SHIN KAWASHIMA	
20. Japan	475
MASAHARU YANAGIHARA	

---

21. India BIMAL N PATEL	500
<b>III. THE AMERICAS AND THE CARIBBEAN</b>	<b>523</b>
22. North America: American Exceptionalism in International Law MARK W JANIS	525
23. Latin America JORGE L ESQUIROL	553
24. The Caribbean DAVID S BERRY	578
<b>IV. EUROPE</b>	<b>605</b>
25. From the Late Middle Ages to the Peace of Westphalia MARTIN KINTZINGER	607
26. From the Peace of Westphalia to the Congress of Vienna HEINZ DUCHHARDT	628
27. From the Congress of Vienna to the Paris Peace Treaties of 1919 MILOŠ VEC	654
28. From the Paris Peace Treaties to the End of the Second World War PETER KRÜGER	679
<b>V. ENCOUNTERS</b>	<b>699</b>
29. China–Europe CHI-HUA TANG	701
30. Japan–Europe KINJI AKASHI	724
31. India–Europe UPENDRA BAXI	744
32. Russia–Europe LAURI MÄLKSOO	764
33. North American Indigenous Peoples' Encounters KEN COATES	787

## PART IV: INTERACTION OR IMPOSITION

- |     |  |     |
|-----|--|-----|
| 34. | Diplomacy<br>ARTHUR EYFFINGER  | 813 |
| 35. | Discovery, Conquest, and Occupation of Territory<br>ANDREW FITZMAURICE | 840 |
| 36. | Colonialism and Domination<br>MATTHEW CRAVEN                           | 862 |
| 37. | Slavery<br>SEYMOUR DRESCHER AND PAUL FINKELMAN                         | 890 |
| 38. | The Civilized and the Uncivilized<br>LILIANA OBREGÓN                   | 917 |

## PART V: METHODOLOGY AND THEORY

- |     |  |      |
|-----|--|------|
| 39. | A History of International Law Histories<br>MARTTI KOSKENNIEMI                             | 943  |
| 40. | Doctrine versus State Practice<br>ANTHONY CARTY  | 972  |
| 41. | The Periodization of the History of International Law<br>OLIVER DIGGELMANN                 | 997  |
| 42. | The Reception of Ancient Legal Thought in Early Modern<br>International Law<br>KAIUS TUORI | 1012 |
| 43. | Eurocentrism in the History of International Law<br>ARNULF BECKER LORCA                    | 1034 |
| 44. | Identifying Regions in the History of International Law<br>ANTONY ANGHIE                   | 1058 |

## PART VI: PEOPLE IN PORTRAIT

- |     |  |      |
|-----|--|------|
| 45. | Muhammad al-Shaybānī (749/50–805)<br>MASHOOD A BADERIN | 1081 |
|-----|--|------|

---

46. Francisco de Vitoria (1483–1546) and Francisco Suárez (1548–1617)	1086
ANNABEL BRETT	
47. Alberico Gentili (1552–1608)	1092
MERIO SCATTOLA	
48. Hugo Grotius (1583–1645)	1098
PETER HAGGENMACHER	
49. Samuel Pufendorf (1632–1694)	1102
KNUD HAAKONSSSEN	
50. Christian Wolff (1679–1754)	1106
KNUD HAAKONSSSEN	
51. Cornelius van Bynkershoek (1673–1743)	1110
KINJI AKASHI	
52. Jean-Jacques Rousseau (1712–1778)	1114
GEORG CAVALLAR	
53. Emer de Vattel (1714–1767)	1118
EMMANUELLE JOUANNET	
54. Immanuel Kant (1724–1804)	1122
PAULINE KLEINGELD	
55. Georg Wilhelm Friedrich Hegel (1770–1831)	1127
ARMIN VON BOGDANDY AND SERGIO DELLAVALLE	
56. Henry Wheaton (1785–1848)	1132
LYDIA H LIU	
57. Francis Lieber (1798–1872)	1137
SILJA VÖNEKY	
58. Bertha von Suttner (1843–1914)	1142
SIMONE PETER	
59. Friedrich Fromhold von Martens (Fyodor Fyodorovich Martens) (1845–1909)	1147
LAURI MÄIKSOO	
60. Lassa Oppenheim (1858–1919)	1152
MATHIAS SCHMOECKEL	
61. Max Huber (1874–1960)	1156
OLIVER DIGGELMANN	

62. Georges Scelle (1878–1961)	1162
OLIVER DIGGELMANN	
63. Hans Kelsen (1881–1973)	1167
BARDO FASSBENDER	
64. Carl Schmitt (1888–1985)	1173
BARDO FASSBENDER	
65. Hersch Lauterpacht (1897–1960)	1179
IAIN SCOBIE	
<i>Index</i>	1185