INTRODUCTION

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Wars, forced migrations, environmental catastrophes, pandemic outbreaks, trade breakdowns, mass grave exhumations, technological breakthroughs: the international legal imaginary is littered with ruptive instances. For international lawyers, Louis Henkin’s famous observation – that ‘almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time’ – continues to be the source of great reassurance (Henkin 1979: 47). From the venous hum of postal services, flight routes and financial transactions, international lawyers discern a disciplinary heartbeat and conviction that an operative body of law remains in place. Yet international lawyers listen, above all, for the screech accompanying an event, when that hum seems to recede and reparation of one kind or another is urged. Of such acute moments is a sense of disciplinary life strung together; of the episodic international law makes an everyday.

The snapshots from that disciplinary life that are assembled in this book are among its most familiar. From the mythic dimensions of the Peace of Westphalia of 1648 to recent revelations of torture perpetrated or sponsored by the US and its allies: the chronology is commonplace. Even its lurches across centuries, unlikely conjunctions and inevitable omissions will be unsurprising to any student of international law. Yet, in their very conventionality, these episodes have much still to relate, or so the contributors to this book will demonstrate.
But before introducing (or reintroducing) international law in all its momentousness in the chapters that follow, we need briefly to explain what this book is about. Impelling the collection is a wish to refresh international legal thinking around events. For if international law is organized around events, then rethinking the event is crucial for a critical international law. What, then, might be entailed in the exercise of ‘eventing’ international law; of finding in international law an opening, or having it come to pass anew (OED 1989)?

EVENTING INTERNATIONAL LAW

The normative expectations that political analysts infer from events are the substance of much of contemporary international law … Yet, at least on first consideration, it is startlingly inconsistent with our accepted notions of law to suggest that one ought to orient oneself in the international legal system by reference to these incidents rather than primarily by reference to statutes, treaties, venerable custom, and judicial and arbitral opinions.

(Reisman 1988: 7)

Since at least the nineteenth century, international lawyers have prospected among events for certain possibilities for international law. Late twentieth-century efforts in this regard are exemplified in the work of Michael Reisman, an influential figure associated with the so-called New Haven School of policy-oriented thought in international law. For Reisman, a focus on the event (or, as he preferred, the ‘incident’ of conflict between two or more actors within the international system (Reisman 1988: 15)) could yield four properties of which international law has been perceived as chronically short.
Such a focus offered, first, prospects for international law’s continual renewal: each incident was cast as capable of generating that which seemed ‘startlingly inconsistent’ with that which had come before. Second, it offered substance or content: events were perceived as the raw material out of which international law could be made and remade over time. Moreover, insofar as the events in question could not fully be accommodated by other legal rubrics, a focus on the event offered means by which international law could continue to lay claim to a distinctive field of operation. It could also mark itself as distinctive from other forms of law on the basis of the extent of its sensitivity to what happens: witness the grounding of international law in custom, in practice, and the way in which balances and imbalances of power structure its institutions.

For Reisman, a focus on incidents or events offered, third, relevance or a point of intimate connection with power. For him that power resided mostly with ‘political analysts’ and the ‘effective elites’ of which they were part (Reisman 1988: 7). What was important for international lawyers, in Reisman’s account, was ‘not so much what happened [in a particular event] as what effective elites think happened and how they react’ (Reisman 1988: 21). In the shared enterprise of ‘think[ing] [what] happened’, international lawyers could commune with those whose decisions they most sought to inform.

Fourth and finally, a focus on the event, or rather a series of events, offered international law a code or sequence by which to orient itself and generate a sense of disciplinary movement. That orientation has been, above all, towards progress and
improvement. By stringing events together into evolutionary narratives, international lawyers have generated a collective disciplinary past, emboldening themselves to navigate its favoured routes into the future. Yet here we see too the beginnings of a tension between events as ‘raw material’, to which international law must respond, and events as discursive phenomena whose interpretation (and consequent incorporation) is what counts.

For international lawyers of today, Reisman’s instincts about the promise latent in the event remain compelling. International legal texts – scholarly and practical – continue to be organized around events as a matter of routine (Charlesworth 2002). Applications to the International Court of Justice, for instance, typically begin with a ‘chronology of relevant events’ (e.g., International Court of Justice 2009: 2). The 2003 edition of a popular international law textbook observes, in its preface, that ‘[c]ertain key events must be noted, for they have combined to shift the orientation of international relations’. The paragraph continues with a brief discussion of ‘human rights violations committed in the Kosovo Province of Yugoslavia in 1998-9 [that] precipitated an air attack by NATO’, ‘the attack on the US on 11 September 2001’, ‘military operations’ in Afghanistan and ‘the campaign against Iraq’ (Shaw 2003: xxiii). Both the 2003 edition and a 2008 edition of the same book highlight the significance of the ‘decisive events’ of colonial empires’ ‘disintegration’ and ‘the birth of scores of new states in the so-called Third World’ as pivotal to ‘the evolution of international affairs since the Second World War’ (Shaw 2003: 38; Shaw 2008: 38). Such occurrences appear as events in these texts at least partly because of the grandness of their scale – a scale in part evidenced by their ability to provoke a response from the law that purports to apply to the whole world. Perhaps, too, this
scale is enacted in and by the international legal record itself, in the moment that the local is elevated to the worldwide through these events’ apparent contribution to international law.

Just as international law might elevate some occurrences to events on a grand scale, so too does it operate as a mode of reduction and containment with respect to events. With reference to new states’ appearance and questions of state succession, for example, Shaw's text remarks that ‘[i]nternational law has to incorporate such events into its general framework with the minimum of disruption and instability’ (Shaw 2003: 861; Shaw 2008: 956). Here, then, we see the event performing similar functions as in Reisman’s work, albeit with a rather different scholarly handling: events orient international law and shift its centre of gravity or focus ‘decisive[ly]’ from time to time. Nonetheless, the event holds dangers of ‘disruption and instability’ levelled at international law’s ‘general framework’ that must be overcome.

International law thus provides a field in which the disruptive potential of events meets directly with an imperative to account for, respond to, contain, incorporate and overcome them. In this process, past events which appear to disrupt the established framework become part of – and indeed to a large extent constitutive of – international legal order. As such events become part of international law’s evolutionary narratives, they often cease, it seems, to be unstable or surprising. However, international law does not seek only to reduce past events to its characteristic narrative forms; it seeks to draw in the future as well. It does this by marking itself as the standard against which actors in future international events will
come to be judged, by asserting itself as capable of shaping the behaviour of those actors, and announcing in advance the progress it seeks to achieve. In the reduction of the past and the future to a narrative of unfolding progress, it often seems that nothing could happen to international law which it has not either anticipated or claimed the ability to capture: nothing surprising, nothing confronting, nothing, perhaps, capable of constituting an ‘event’ in ‘the strong sense’ (Derrida 2002: 234).

Caught between irruption and containment, events, then, seem to confront international law in a contradictory way. It is at this point of contradiction that the contributions to this book are situated. They are situated generally, it may be said, with a view to emphasizing the possibilities which remain, or the continuing operation of instability and potential in events, even after their ostensible containment by international law.

Nonetheless, as preceding paragraphs have emphasized, the turn to events in and for international law is anything but new; indeed, for most international lawyers it is a matter of reflex. What is distinctive about this book, by way of a contribution to international law literature, is its reflection upon this very reflex in the course of its re-enactment. While in one way performing one of international law’s most familiar routines – namely, the discipline’s recurrent reference to a chronology of events – contributors to this book have sought to raise questions other than those conventionally provoked by the events in question. Those questions include the following. What does international law make of the events by which it orients itself? How has ‘eventness’ been registered in and by the discipline? How, in particular, have international lawyers envisaged that which is previously unforeseen or
unimagined being brought about? What might be some effects of enlivening registers of ‘eventness’ within this familiar disciplinary record other than those oriented towards progress as such? Might some of international law’s most familiar modes of understanding yet be made strange and if so, to what end (if ends are what should concern us)? In addressing these questions and others, the aim of this book is not to inscribe a more definitive or authentic account of international law’s ‘key events’ as much as to demonstrate and explore continuing possibilities for these events to exert ruptive force.

In these inquiries, the contributors to this book are, as they acknowledge, far from alone. Rupture, dislocation and ‘the shock of the new’ have been matters of intense study across a range of disciplines for centuries (Hughes 1980). In various modes, these have been characteristic preoccupations of the modern era. Many of these inquiries have, moreover, circulated around different iterations of the event. Indeed, as a preoccupation of particular modes of philosophical and political inquiry, the Event has attained the status of a proper noun.

EVENTAL MOMENTS AND EVENTAL SITES IN CONTEMPORARY THOUGHT

In philosophy of a left or critical bent, the Event has been a recurring figure of ‘groundlessness’ or the impossibility of absolute foundations (Marchart 2007). What Marchart calls ‘post-foundational’ thought challenges the familiar shift brought on by the advent of modernity to the scientistic, and the corollary belief in the possibility of positive ‘foundations’ (Steinmetz 2005). Post-foundational thought rejects the accepted view that the institutions of society (including law and politics), and society
itself, are founded on principles, categories and identities which are undeniable, immune to revision and located outside themselves or outside society (Herzog 1985: 20). In terms of the Event, then, what the rather disparate approaches we can gather under this banner arguably share is ‘a radicalized notion of the event as something one encounters and which cannot be subsumed under the logic of foundation: rather event denotes the dislocating and disruptive moment in which foundations crumble’ (Marchart 2007: 2).

For some, ‘[t]he surprise – the event – does not belong to the order of representation’ (Nancy 2000: 173). This suggests a category of something like genuine Events which ‘exceed […] everyday patterns of thinking and acting, opening up a space beyond [themselves]’ (Passavant and Dean 2004: 315). For others, the turn to the Event marks a more interpretative orientation, suggesting the need to take some analytical and strategic distance from ‘what might (quaintly?) be called world historical events’ and to reconsider ostensibly banal ones with the aim of ‘decentering the event, working around it, treating it as contingency or symptom’ (Brown 1997). Such interpretative approaches might be taken as a refusal of the time of events, adopting a certain ‘resistance to [their] immediate terms and intensity’ so as to be better able to reflect, to conceptualize and above all, to contextualize (Fitzpatrick, 2003).

Other approaches in the interpretative vein draw on discourse analysis and theories about the performativity of language in order to encourage us to see that Events and their representation, or form of expression, are inextricably bound together. Understanding that ‘event attributions do not simply describe or report pre-existing events, they help to actualize particular events in the social field […]’ illuminates how
a description within a particular social context determines something as a particular kind of Event (Patton, 1997). This also explains why the description of an Event will often be the site of active contestation by political actors.

The commonality of the approaches to which we have referred – such as it is – is to open events, or the Event, to the political. ‘The political’ here does not mean institutionalized politics, nor wider social practices that we might call politics. Instead it indicates precisely that which escapes political domestication. To relate it back to grounds, or the idea of foundation, the political is that which is precluded by the actual grounding of society and institutions. The ontic practices of conventional politics to attempt to ground society are, according to these accounts, always unsuccessful. This is because the grounds themselves can never be complete, or to oversimplify, themselves be grounded. This is not necessarily a bad thing. Nonetheless, in order to account for society’s absent ground, a term was needed for ‘the founding difference that [prevents the social] from closing and becoming identical with itself’ (Marchart 2007: 5). This term, within a long and rich vein of critical social thought, is ‘the political’. ‘The political’ thus gestures toward the fact that something is always lost when society is instituted.

In the work of some post-foundational scholars, the Event, like the political, is in the foregoing sense a figure of groundlessness or contingency. Other figures of groundlessness include freedom, truth or the real. These figures ‘stand’ on society’s non-ground. The moment of the political – a moment some render as Event – is the instant when society’s absent ground becomes palpable (Marchart 2007: 8).
To gather post-foundational scholarship in this way is, of course, to elide much in the work of the scholars in question, divergences especially. Many renderings of the Event in contemporary philosophy are neither fungible with, nor gathered comfortably alongside, other understandings of the term. The work of Alain Badiou, for instance, has invested the Event with a precise meaning formulated axiomatically on the basis of extensional set theory (or a rendering of the latter in Badiou’s own name). Within that field, the Event is the name that Badiou gives to that which is ‘always an abnormal multiple’; the supernumerary (Badiou 2007: 179). So derived, the Event, per Badiou, is a haphazardly occurring mark of the localized possibility of ‘laicized grace’; ‘neither an ontological attribute nor a historical result but something that occasionally comes to pass, from time to time’ (Hallward 2003: 115; xxxii).

Furthermore, the Event is not instantaneously emergent as such. Rather, the properties of an evental site are such as to force a decision whether to intervene to generate the singular ‘discipline’ of realizing some unrepresentable ‘newness in being’ on which we might wager the name Event (Badiou 2007: 207-9). In this sense, the Event is, for Badiou, foundational; evental sites are ‘absolutely primary terms’ within a situation (Badiou 2007: 175).

For all its density and difficulty, Badiou’s work on the Event nonetheless installs a marker for emancipatory politics in the plural. Badiou’s writing seeks to recoup and ‘subtract[ ] the sheer “what happens” from the general determinations of “what is”’ (Badiou 2004: 100). Politics, in Badiou’s account, begins with thought, rather than opinion, group, class or social configuration (Badiou 2005: 5). His is, then, a ‘radical inaugural gesture’ of thought that seeks to ‘set out on an entirely different path’ to that which political philosophy has previously inscribed (Badiou 2004: 104; Badiou 2005:
23). That is a path opposed to ‘every vision of consensual politics’ and to ‘the
humanist vision of the bond, or the being-together’ (Badiou 2005: 23, 66). Instead,
each evental site in Badiou’s account is the locus for ‘the inception of a politics’ of
absolute singularity through which a subject – or subjective universality – expressive
of an egalitarian logic may be induced (Badiou 2005: 23; 143; 148-9).

For Jacques Derrida, on the other hand, the Event expresses not so much a point or
site from which one could found or even depart toward a new politics, but rather an
opportunity to glimpse the relationship between the impossible and the possible, the
unconditional and the conditional. For Derrida, the Event depends on the ‘dangerous
modality of the “perhaps”’: there ‘is no future and no relation to the coming of the
event without an experience of the “perhaps”’. (Derrida 2002: 234, 235). This
modality is one of exposure to that which cannot be determined in advance,
anticipated or conditioned, or made subject to rules – even the rules by which it could
be understood. An Event ‘in the strong sense’ would suppose an ‘irruption that
punctures the horizon, interrupting any performative organization, any convention, or
any context that can be dominated by a conventionality. Which is to say that this
event takes place only where it does not allow itself to be domesticated....’ (Derrida
2002: 234). If events are the ‘raw material’ out of which international law is made,
this line of thought would emphasize their rawness.

Derrida would concede that an Event is produced by the performative which claims
only to speak of it (Derrida 2002: 234). Yet also, and inversely, the very act of
speaking of and for the Event, of interpreting it, of giving it a meaning and a context
(for example, placing it within a narrative conditioned by international law's modes of
conventionality) neutralizes its character as ‘event’ in Derrida’s terms. For Derrida, ‘if what arrives belongs to the horizon of the possible, or even of a possible performative, it does not arrive, it does not happen, in the full sense of the word’ (Derrida 2002: 234). Indeed:

The event belongs to the *perhaps* that is in keeping not with the possible, but with the impossible. And its force is therefore irreducible to the force or the power of a performative, even if it gives to the performative itself, to what is called the *force* of the performative, its chance and effectiveness.  

(Derrida 2002: 235)

In these terms, events provide a dangerous kind of raw material for international law. Events give international law what it needs to in order to announce and impose itself on the world, things to comprehend, explain, abhor, judge, regulate *et cetera*. And yet events cannot be totally and finally reduced to international law’s own ends: the ‘force of the event is always stronger than the force of the performative … in the face of what … happens … all performative force is overrun, exceeded, exposed’ (Derrida 2002: 235). No conditioning, contextualizing and reduction can totally neutralize the disruptive potential of events. They remain open to new modes of appropriation, new interpretations. Something like this possibility underlies many of the contributions to this book. Nonetheless, per Derrida, difficulty lies in keeping the singular, unconditional force of the Event in operation, in spite of ever-present sovereign modes of capture and reduction (Derrida 2002: 235).

THE CHAPTERS
Fittingly, Jennifer Beard opens the chapters by examining the relationship between the two key events by which modern international law is thought to have been founded: the Peace of Westphalia of 1648 and the discovery of the New World. Beard’s concern is with the violent event of ‘discovery’ as constitutive of the two worlds instantiated in distinction in the Peace of Westphalia: ‘the Old World of Europe and a New World that was to be subjected to colonisation’. The claim of peace and universal law embedded in Westphalia is, Beard argues, anachronistic; it is a form of legalized or mythical violence in Walter Benjamin’s terms. From this event of history- and law-making violence, Beard invites us to gaze ‘beyond historical time’ to spaces ‘where the multitude threatens the place of the state subject’.

From Beard’s essay, we move back in historical time to the mid-sixteenth century and the Valladolid Debates between Juan Ginés de Sepúlveda, Bartolomé de Las Casas and Francisco de Vitoria concerning the status, entitlements and self-governing capacities of Amerindians. We stay, nonetheless, with Benjamin’s notion of mythic violence. In Oscar Guardiola-Rivera’s account, it is the pragmatic common sense of international law and international relations that enacts the mythical in its unending ‘index of the totality of cases’. From Vitoria and Sepúlveda contemporary international lawyers have drawn an idea of law’s constancy through time and space, Guardiola-Rivera maintains. In this concern with constancy, international lawyers have disavowed the event, that is, the unprecedented or improbable. Against this tendency, Guardiola-Rivera retrieves the ‘memory’ of Felipe Guaman Poma de Ayala’s writings, particularly his presentation of ‘the challenge of extinction’ and thus the ‘non-totalisable nature of reality’. From this, Guardiola-Rivera extracts
possibilities for ‘a conception of the event freed from its limits in experience’ and an ethical disposition of openness towards the nonexistent.

Peter Fitzpatrick’s chapter also takes the work of Francisco de Vitoria as a point of departure. In its straddling the divide between the medieval and the modern, Fitzpatrick finds in Vitoria’s work the preservation of a contradiction within international law that standard modern accounts would suppress. In the standard account, Fitzpatrick contends, international law gains its force ‘solely from the sovereign and secular nations out of which it dependently emanates’. Yet, as Fitzpatrick shows, these entities are dependent on international law to provide the terms on which they are constituted. Taking this contradiction (between the singular nation state and the community of the international) as itself constitutive of the force of international law, Fitzpatrick demonstrates its salience both in Vitoria’s writings and by way of reflection on the Event as such.

Richard Joyce’s chapter returns us to the Peace of Westphalia and the common claim made for its being the founding event of modern sovereignty; a foundation which in turn is taken to ground international law. Joyce examines recent claims to the contrary – claims that the content of the Westphalian treaties did not inaugurate or consolidate an unequivocal principle of sovereign statehood, and that its status as the founding event of international law is the work of myth rather than history. Between these positions, Joyce argues that the continued significance of Westphalia for modern sovereignty lies precisely in the disjuncture between the historical record and that for which it is remembered. One measure of this significance lies in the way in which the complexity of political forms in the Westphalian treaties might help to put in
perspective current ‘crises’ in modern sovereignty. Another is the way in which Westphalia highlights both the importance of myth to our understanding of modern sovereignty and law and the way in which that importance is often denied.

Thomas Skouteris (re)visits the adoption of article 38 of the statute of the Permanent Court of International Justice (PCIJ), a classic event in most treatises of international law. This article, adopted with the court’s statute in 1920, lists normative forms to which the court may have regard in deciding what the law was to be applied to any decision. Notwithstanding its seemingly modest aim, the article became the unintended point of origin for what later became the modern doctrine of the sources of international law. Skouteris uses this ‘seminal’ doctrinal moment in the development of international law as a case study for analyzing notions of progress in international law, in terms of both form and function. In Skouteris’ argument, the adoption of article 38 operates retrospectively within sources doctrine, and implicitly within international law as a whole, as a founding moment for a new determinacy within international law. But, he argues, this determinacy is putative; it can be asserted only through the negation of what went before. Certain techniques such as standardization and formalization are involved in that negation, but are themselves dependent on a modernization story. Skouteris’ chapter shows that while those techniques seem to help us to discern the difference between law and non-law ever more clearly, they ultimately rely on gestures or incantations, of pragmatism and rationality in particular, to conjure up a point of arrival for the modernizing movement forward. The event of article 38, and the formation of a determinate doctrine of sources, thus turn out to be matters of fantasy, or at least a myth of origin, but one which is ideologically operative through its (re)iteration.
Gerry Simpson’s chapter continues the theme of the instability of the distinctions on which legal categories are founded with a consideration of the *levée en masse*, or event of mass uprising, beginning with that which occurred in France in 1793. This event, which Simpson suggests, ‘may or may not have occurred, and might only exist as a possibility’, has yet shaped our experience of war and resistance through its occupation of the unstable space of differentiation between the two. Simpson traces two competing conceptions of the *levée en masse* to show the way the poles which the conceptions respectively occupy operate on one level as a kind of ‘ground’ for the laws of war. On another level, those poles themselves come full circle, bleeding into one another in fact, and implicitly stabilizing one another in principle. The *levée* is thus a paradoxical moment in which an event which threatens to exceed law can do so only by its demand for recognition by law. Without its liminal status being marked by law itself, the event simply becomes illegal. Yet once marked by law, arguably that liminal status dissolves in favour of incorporation into the regulation of violence and the event of *levée en masse* is neutralized.

The evental character of law’s instability is further explored in Sundhya Pahuja’s chapter as she draws out the character of a post-colonial event in international law. Specifically, Pahuja offers an account of the way in which a heterogeneous series of political demands for independence after the end of World War II are narrated into the smooth event of ‘decolonization’ within international law. As in many other chapters in the book, this narrative emollient is provided in Pahuja’s account in large measure by a story about progress, or a movement forward, embodied here by the concept of development. Like Simpson and others in this volume, Pahuja is interested in the way
that certain demands (which may in themselves take the form of events) threaten to disrupt the categories of international law, which categories address thatruptive potential via a process of incorporation. In doctrinal terms, the extension of legal principle to include a particular political claim embodied in an event marks the success of that political claim. In other ways, that inclusion is precisely a depoliticization of the more radical dimensions of the claim. Like the mass uprising and its (re)categorization as a *levée en masse*, claims for decolonization are neutralized as they are recognized as acts of self-determination by nation states within the legal frame. The specifically post-colonial character of the event of decolonization in Pahuja’s account arises from the way the universal promise of international law itself both facilitates the demands for decolonization through a certain illimitability of that promise and facilitates those demands’ incorporation within law’s body.

Scott Newton’s chapter also focuses on the way in which the disruptive potential in events might be reduced by their containment within a narrative determined by dominant voices. Newton’s concern is with the collapse of state socialism in Eastern and Central Europe in 1989 and the subsequent collapse of the Soviet Union two years later. As Newton shows, these collapses seemed to provide the opportunity for the realization of an international system promised in 1945, but held back by the Cold War. Nineteen eighty-nine thus ‘rapidly assumed the dimensions of an epochal Event’, Newton recounts. Newton argues, however, that this ‘Event’ is better characterized as a ““psuedo-Event,” staged or managed (or co-opted) by an existing configuration of power or authority, rather than spontaneously generating any new such configuration on the basis of new revolutionary subjectivities’. This is exemplified, for Newton, by the way in which the language and practice of
‘transition’ (of the former socialist states’ economies into market economies) deprived societies in these states of the critical standpoints necessary to maintain fidelity to the Event (in Alain Badiou’s sense) of the collapses themselves.

In narrating the story of Nelson Mandela’s release from prison, Fredéric Megret’s chapter highlights the way in which ‘external’ events are incorporated into international law, again as part of a narrative of progress. This time the story is one of a progressive journey to freedom which certain traditions of contemporary international law see themselves as bringing about. Megret’s chapter resonates tellingly with Pahuja’s observations about the uncontainability of the promise of justice within international law, illustrating ways in which that promise can be mobilized against pragmatic, bureaucratic and ‘apologetic’ tendencies within international law (Koskenniemi 2006). Mandela’s release, for Megret, is neither a triumphant narrative of a victory over oppression nor a condemnation of international law’s impuissance in the face of a gross injustice. Instead, Megret offers a subtle account of the way this peculiar, even unique, event called international law to account for itself, breathing life into its promise of justice and resuscitating near-near-moribund institutions. The disruption caused by this event is thus slightly different to most others in the book. Megret focuses on the way the emancipatory character of international law’s affirmation of human rights can be operative through the narration of a radical event as one ‘belonging’ to international law, and in this continuing operation, generative of institutional renewal. This stands in contrast to other chapters’ accounts of the incorporation and deradicalization of events challenging the order of international law.
In Emilios Christodoulidis’ chapter, on the other hand, we encounter the event in quite a distinct sense: that derived from the work of Alain Badiou. We encounter it also in a sense more familiar for international lawyers: the event in question is that of an explicitly politicized trial and the trials discussed are matters of historical record and international legal concern: the French trials of Algerian militants and the Milosevic trial. Drawing from Badiou, the political trial is considered first as situation, then as evental site within that situation. Through its Badiouvian framing as evental site, Christodoulidis seeks in the trial ‘the possibility of challenging existing distributions of subject positions and entitlements’ or ‘break[ing] out of … situational confinement’. Within a trial situation, he asks, how are immanent possibilities for resistance to the orders of capital created?

Karen Knop’s chapter also concerns the trial and possibilities for its re-enactment in a register of resistance. Knop recounts a trial performed as a retrospective remaking of historical events, or an ‘act of going back in time and taking another path’: the 2001 Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery. This ‘as if’ act was structured, Knop observes, to blend fact and fiction. As such it comprises, in Knop’s innovative reading, a distinctive form of critique. For all its limits, Knop suggests, this critique helped to create ‘a feminist past manqué for international law’ with some of the force of precedent.

Denise Ferreira da Silva’s chapter concerns another ‘landmark’ trial in international law: the first decision of the International Criminal Tribunal for Rwanda (ICTR), in 1998, The Prosecutor v Jean-Paul Akayesu. For da Silva, however, this event enacts less a disruption than a consolidation: specifically, a consolidation of ‘the place of"
humanity in … international law through the particular deployment of cultural
difference that sustains the [ICTR] Chamber’s decision’. Like other contributors, Da
Silva regards the event as constitutive of subjectivity. Hence she asks: ‘What sort of
juridical subjects does this deployment produce?’ Surmising that the subject of crime
against humanity may present ‘the latest refashioning of the global subaltern subject’,
she seeks ways to ‘comprehend its conditions of emergence and effects’ by reading
through and beyond ‘early’ critical approaches preoccupied with ‘racial othering’.

Tackling further landmarks of institution building, Patricia Tuit’s essay takes on the
usual account of the European Union’s establishment as having been achieved by the
force of ‘positive legal norms alone’. For Tuitt, by contrast, the creation of the
European Union relied, just like the creation of the ‘New World’, on land
appropriation. In both cases, this process necessitated the presentation of the space
which would be appropriated as ‘free’ despite being both ‘populated and governed’.
Tuitt argues that the assertion of the four freedoms in the Rome Treaty (the free
movement of goods, services, workers and capital) effected this transformation of the
territory of Europe into a space which could simultaneously ground and have imposed
on it a new sovereign order. For Tuitt, it is by accepting ‘that the European Union
relies for its existence on modes of sovereign assertion that pre-dated (and made
possible) the state system’ that we might come to understand the ‘uneven distribution
of rights among the people of Europe’.

Emergence and structural effects are, in a different yet related sense, the foci of Fiona
MacMillan’s chapter on the establishment of the World Trade Organization (WTO) in
1995. In Macmillan’s account, the WTO’s creation, and the rise of ‘corporate
capitalism’ within which she situates it, are traceable to the establishment of the English East India Company and its Dutch counterpart at the beginning of the seventeenth century. As such, the international regulatory strategies borne out in the WTO’s creation are linked to corporations’ complex interdependence with states, interstate competition for mobile capital and the growth in corporations’ capacity to wield influence on their own behalf within processes of supranational institution building and structural change. Rather than being an interruption, the rise of the WTO is cast as a response to an interruption in ‘the process of corporate-led globalisation’; that interruption being the introduction of non-tariff measures in the wake of ‘exogenous shocks’ of the 1970s and 1980s. This response, MacMillan suggests, echoes repeated turns from war to international (economic) law-making as a means of managing conflict. Past failures in these efforts, MacMillan suggests, should give us pause before re-enacting them amid ‘the current period of economic turbulence’.

Underlining the multiplicity of this event and its openness to many readings, Donatella Alessandrini’s chapter also examines the WTO’s establishment. For Alessandrini, however, the questions raised by this institution’s emergence surround ‘the development dimension’ of international trade. Specifically, Alessandrini engages critically the notion that the WTO’s creation signalled a victory for rational choice approaches to the pursuit of development goals, over the ‘ideological’ claims by which earlier periods of development thinking were said to be marked. Like other contributors, Alessandrini identifies continuity where some would announce rupture. The late-twentieth-century neo-liberal ‘revolution’ in development thinking is less revolution than reformulation, in Alessandrini’s account: political assumptions underpinning earlier development theories were overthrown, only to usher in ‘a new
and powerful construction of developing countries’ “backwardness”. At the same
time, Alessandrini takes issue with prevailing interpretations of that shift in
development thinking, rejecting the notion that it resulted from stakeholders’ rational
pursuit of the most efficient trade policy. This change in thought has not been a
flowering of reason, Alessandrini maintains; rather, it is an outcome of multiple
material, structural and regulatory factors, some of the most important of which have
been too easily dismissed. Challenging the WTO’s development agenda is, then, less
a matter of reasoning towards greater efficiency than of “[r]ecognising how the
“development mission” of the international trading regime has operated since
inception’. Openings reside elsewhere than among trade-offs framed in rational
choice terms.

Ruth Buchanan’s chapter identifies openings as well. Buchanan explores street-level
mobilizations against international institutions as ‘direct interventions into ongoing
legal debates over the legitimacy and accountability of that institution’. Actions taken
in 1999 in Seattle against the WTO serve as her exemplary case study. Using Arendt’s
notion of the event, read alongside that discernible in writings of activist participants
in the 1999 demonstrations, Buchanan seeks to extend critical thinking about citizen
action, the constitutive force of resistance and the role of social movements within
international law. In their unpredictable, performative dimension, Buchanan argues,
these actions may counter-actualize politics and reveal ‘something new in the world’,
understood in the sense of Arendt’s writing on political events.

Continuing in the vein of resistance, Obiora Chinedu Okafor is interested in what we
might think of as resistant international law theory, and in particular, Third World
Approaches to International Law or ‘TWAIL’. In his chapter, Okafor seeks to use a TWAIL approach to explore the reconfigurations of the international sphere in the aftermath of 11 September 2001, and to ask what ways of understanding the world have become prominent since events of that date. Like others in this volume, Okafor is interested in the continuities of practices of domination and subordination in the world in both material and epistemological terms. These continuities are concealed in new techniques, but may be unearthed through an insistence on history, and on remembering the past in the face of what seems ever new. In line with this insistence, Okafor reminds us of the colonial roots of intervention, and the putative universality of its justifying norms. He also reminds us of the familiarity for the Third World of practices such as torture. These acts, marked as exceptional and necessary to respond to the unprecedented events of now, can be seen as almost routine in the context of interventions into the Third World, justified, then as now, by the threat of barbarism and the need to protect the ‘international community’. Scrutinized through this lens, what Okafor calls ‘security relativism’ is therefore shown to be something international lawyers must resist, lest we join the long list of ‘friendly torturers’, justifying their barbarity in the name of security.

Concerned also with violence precipitated by 11 September and continuities enacted thereby, John Strawson’s chapter takes as its point of departure the common assumption that the invasion of Iraq in 2003 was illegal under international law. In Strawson’s account, the invasion does not provide a clear example of a breach of international law, but rather highlights the limited nature of the prohibition on the use of force by states. In particular, Strawson emphasizes the scope left to states themselves to determine whether circumstances exist justifying the use of force in
their self-defence. None of this is surprising, Strawson argues, once the role played by colonization in shaping the norms and structure of international law (and, in particular, the prerogatives of sovereign statehood and attendant ambiguities on the use of force) is recognized. The example of the Indian invasion of Goa in 1961 is offered as another ‘event’ in which the relationship between international law and the self-justified use of force by a sovereign state is at stake. In that instance, however, ‘war was seen as a means to enforce law’. Drawing a link between Goa and Iraq, Strawson argues that colonialism bequeathed an international law on the use of force which has not been challenged head on, but instead remains open for ‘competitive appropriation’ by states who seek to determine its meaning in their own interests.

Closing the book, Fleur Johns’ chapter, on the release of the so-called torture memos between 2004 and 2009, is concerned with something new coming into the world as international law understands it, however marked with convention and continuity. The newness in question is the law-making capacity of a figure to which Johns gives both the name ‘detainee-combatant’ and the name ‘event’, the latter framed in terms drawn from Alain Badiou. In the piecemeal record of detainee-jailer interactions taken from various reports, Johns discerns efforts, on the part of detainees, to activate the errancy of the category ‘unlawful combatant’ and contest the law-making endeavours in which all parties seemingly recognized themselves to be engaged. For Johns, the torture memos’ release amounted to a public announcement of this novatory law making, revealing law directly enabling and enabled by violence. In Johns’ account, the persistence of this errancy explains the intensity and vigour of international lawyers’ efforts to redeem themselves and remake their disciplinary situation in the memos’ wake.
CONCLUSIONS AND BEGINNINGS

Fittingly, then, the book concludes with an announcement of newness and a record of both its persistence and its domestication in international law. From the book’s chapters, no shared conception of the Event emerges. Even so, contributors to the book are working from a more or less common canon of ‘post-foundational’ writing surrounding the Event (Marchart 2007) and an equally incendiary tradition of international law’s renewal through historical critique. It has become customary to look to the former for diagnosis and direction in contemporary international legal scholarship. This book suggests that ‘mainstream’ international lawyers’ libraries could perhaps be as rich, in this regard, as those of their more ‘interdisciplinary’ colleagues, given the attentive readings exemplified in its chapters.

By subverting or sideswiping the usual interpretations given to the events under consideration, or by bringing to light things about them which may have been neglected, the contributors to this book put in question both the specific events they have addressed (their meaning and significance for international law, that is) and also the possibility of a singular narrative for international law as a whole. As this book’s contributors show, events can be seen to have a generative force in relation to international law. However, the relation is at least circular, for international law also makes of certain occurrences ‘events’ with ramifications extending well beyond international law’s disciplinary field. In light of these generative relations, and their divergent impacts, recognizing and exploiting the multiplicity of possible readings of international law’s ‘seminal’ events prompts a rethinking of what international law and international lawyers might yet do. It does not, however, point towards a clear
answer to that question. If both international law and the Event itself are characteristically caught between irruption and containment – between the threat and promise of the new on the one hand, and the incorporation of what happens into a pre-existing, dominant narrative on the other – then perhaps a useful critical stance will be one which is not held hostage to the imperative to fashion for each an integrative disciplinary response or resolution. Indeed, we might just as well conclude that what we learn from international law’s relation to the Event is precisely a reminder that the chance and challenge to determine what international law does, and what it is for, remain open.
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