

Hull, Isabel V.: *A Scrap of Paper. Breaking and Making International Law During the Great War*. Ithaca: Cornell University Press 2014. ISBN: 978-0-8014-5273-4; XIII, 368 S.

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The First World War started with an offence against international law. When German troops invaded Belgium to advance quickly to France, they acted in flagrant breach of the Treaty of London of 1839, in which all major European powers had safeguarded the neutrality of the newly founded nation. Quickly, a series of killings and other atrocities against Belgian and later French civilians commenced, in which altogether 6,427 people were killed by German troops, a clear violation of the The Hague convention on land warfare. Yet in a conversation with the British ambassador Edward Goschen on 4th August 1914, German chancellor Bethmann Hollweg mocked the notion that Britain would enter the war for a mere 'scrap of paper', i.e. the 1839 treaty (p. 42). In her new book, Isabel Hull aims to reinstate the debate on and practice of international law into the centre of historical discourse on the Great War. This endeavour is informed by current debates on international law in the wake of the 'war on terror'. But it is also driven by the sense that only an analysis of the breaking of international law can reinject meaning and a sense of purpose into a historiography that has forgotten how central international law was not only to the conduct of war, but also for its ramifications in international politics after 1918. The focus of Hull's book is on Germany as a 'persistent objector' against the codification of war in international law (p. 88). The point is not only that Germany brushed legal restrictions to its conduct of war aside right from the beginning, and with catastrophic consequences, but even more that it systematically rejected the notion that its conduct of war should abide by the rules it had agreed to in The Hague. This is compared with the British and – to a lesser extent – the French conduct of war and the legal reasoning and political maneuvering behind it.

Hull's analysis is based and predicated on

a reconstruction of pre-war debates among German jurists about the notion of 'military necessity', and its reception among the military and the government officials in charge of foreign policy (pp. 67–88). These jurists argued that legal restrictions on the conduct of war as well as humanitarian principles were overridden by purely military considerations. This went beyond the mere notion of reprisal which was used in different circumstances and in differing degrees by all belligerent armies. Thus, Hull ties the current analysis in with her previous argument on the organizational tendency within the German military to seek 'absolute destruction' and thus turning violence from a means towards an end to an – theoretically unlimited – end in its own right.¹ However, the evidence for the use of 'military necessity' as an argument during the war is rather thin on the ground. In some of the examples it appears that the rationale was the imperative of war – which has to be distinguished from *Kriegsbrauch* –, or, in the words of a German Foreign Office memo from December 1914, a 'purely utilitarian' reasoning that the Germans thought the Allies were practicing themselves (p. 222). These are more than linguistic subtleties, as *Kriegsnotwendigkeit* was not the organizational drive towards 'absolute destruction', but the expedience with regard to limited aims in military conflict, however badly they were defined.

In subsequent chapters, Hull then uses this framework for an analysis of different fields of international law, such as the treatment of enemy civilians in occupied territories, the use of new weapons such as poison gas, flamethrowers and zeppelins, and reprisals against POWs and their unlawful use as a labour force in or near the combat zone. A separate chapter is devoted to unrestricted submarine warfare, in many ways the most blatant German violation of international law, and also the one that proved most costly in terms of the civilians killed in its course. Hull is particularly scathing about the strategic and political disaster that the submarine campaign brought about, as the Germans never

¹ See especially p. 231. Compare her previous book: Isabel V. Hull, *Absolute Destruction. Military Culture and the Practices of War in Imperial Germany*, Ithaca 2005.

answered to a US offer to stop the most 'objectionable aspects' of the British naval blockade in an exchange for Germany giving up on the unrestricted use of submarines. Yet the actual effects of that campaign in terms of the sinkage rate were marginal, so that the navy effectively 'sank' the German war effort by forcing the US to enter the war while not delivering any actual advantage in return (pp. 261, 266).

A key reason for the German rejection of the limitations that international law imposed on its conduct of war was the dysfunctional nature of decision-making at the highest level of the Reich, in which the diplomats of the *Auswärtiges Amt* and their legal experts were either not fully consulted in the first place or their objections overruled upon request from the military. Hull contrasts this with the procedures in the UK and in France, in which legal experts were consulted at all stages of the decision-making process. The upshot of this comparison is „that Britain took law enormously seriously, even when it was breaking it“ (p. 194). It is hard to see this formulation not as ironic and in fact self-defeating, particularly when considering the context in which it was made. This is the British naval blockade. The rules of sea warfare were a thorny issue, not least because the main attempt to regulate this field, the 1909 Declaration of London, had not been ratified by any of its signatories prior to the war. Still, it could be seen as customary law, a position that not only the Germans, but also neutral states such as the Netherlands and Sweden, which were severely affected by the blockade, maintained (p. 177). Yet the situation changed when Britain introduced a series of measures, starting with an order on 11th March 1915, that expanded the blockade by targeting German exports and confiscated enemy property from neutral vessels. The pretence for this act was reprisal against the German declaration of unrestricted U-boat warfare around the British isles, but the measures were in breach of the earlier Declaration of Paris of 1856 (pp. 185ff.).² Hull's analysis of the British blockade is flawed. Not only does it fail to take considerations of morality and, perhaps more importantly, legitimacy into account, given the fact that the estimated death toll of the blockade among German civilians –

with an estimated excess mortality of between 300,000 and a maximum of 424,000 (p. 169) – was perhaps up to ten times higher than the fatalities of all German offences against international law added together.³ While providing enough material evidence in this direction, Isabel Hull fails to acknowledge the fundamental point that the British could rely on their economic power to force neutral countries into acquiescence with their aims, a strategy that was not available to the German military.

Without doubt, this is one of the most important books on the Great War that has been published in the context of the centenary. However, it is not without flaws, and not all of its arguments are entirely convincing.

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² It should be noted in passing that Alan Kramer, in his chapter in a widely read companion, states that the blockade implied no violation of international law at all, and advances the unconvincing argument that the blockade could not have been illegal for economic reasons anyway, as Germany was self-sufficient with regard to food supplies prior to the war. Both mistakes should be corrected in future editions of the volume: Alan Kramer, *Kriegsrecht und Kriegsverbrechen*, in: Gerhard Hirschfeld/Gerd Krumeich/Irina Renz (eds.), *Enzyklopädie Erster Weltkrieg*, Paderborn 2003, pp. 281–292, p. 285.

³ The first point on moral implications is raised in the critical review by Samuel Moyn, *Wall Street Journal*, 5 June 2014, <<http://www.wsj.com/articles/book-review-a-scrap-of-paper-by-isabel-v-hull-1402010920>> (accessed 29.04.2015).