

Foreword

*Frédéric Mégret**

The ambition of *Inter Gentes* is to imagine how international law might be conceived as a law *between* peoples and individuals rather than strictly, as has long been the conventional assumption, an interstate law. It thus aims to reclaim some of the long lost origins of the discipline, and to enrich our understanding of international law as solidly dependent on a variety of global exchanges, including legal exchanges. In that respect, the *Inter Gentes* focus differs from the transnational law paradigm that has been in vogue for several years in that it is not only focused on the flow of people across borders or the regulation of corporate actors on a global level. In emphasizing “gentes,” the Journal will be interested in collectives that continue to define the public destiny of international law, although whether peoples are the nation or some other collective such as indigenous groups or diasporas for example will precisely be one of the Journal’s foci.

Emerging from the rich transsystemic experience of the McGill Faculty of Law, at the intersection of the English and French speaking worlds, the common and the civil law, *Inter Gentes* will also draw on the lens of legal pluralism in an effort to move away from the prevalent unitary view of international law (“there is only one international law”) to see international law as multiple based on the logic of actors that resort to it and the myriad of social meanings they impose upon it. International law, no doubt, is many things to different people and both professional and profane, theoretical and practical participations in its ongoing destiny are part of its constitution.

True to this pluralist ambition, *Inter Gentes* will be based on an open, dynamic platform for transnational academic exchange that draws on the many global connections of its faculty and student body. Where even much international legal scholarship remains surprisingly wedded to place and specific histories, it sees engaging various traditions in a dialogue as essential to the process of reinventing international legal forms. The first issue aims to showcase some of the possibilities inherent in its pluralist formula by encouraging a dialogue on the relationship of the idea of resistance to the project of international law.

Resistance *to* international law, resistance *thanks to* international law: there is little doubt that resistance constitutes one of the underlying threads of international law’s genesis and continued existence. Where the dominant view of the centrality of the rule of law, including in its international variant, seems to want to straitjacket all participants into a singular respect for the law as it is, the legal pluralist mindset has always been more sensitive to the way in which international law is constantly shaped and constructed through its interactions, including the less polite interactions, with various actors. Rather than just focus on the “compliance pull” one needs to redirect one’s attentions to the “compliance push:” the degree to which the law’s rejection, or at least strategies to mitigate and evade its application, end up being part of the world’s normative framework broadly understood.

Indeed, the law’s contestation is if nothing else a symptom of the law’s travails. Several authors in this issue emphasize the degree to which resistance to international law is a reaction to its epistemological and, indeed, ontological hermeticity. Peter Fitzpatrick for example emphasizes its “neoliberal enclosing” as suppressing what is nonetheless its “formative plurality.” In highlighting how deep a form of oppression international law constitutes, Pierre-Alexandre Cardinal cautions against international law’s ability to even comprehend forms of resistance that are not expressed within its colonial matrix. And Linda Hamid and Jan Wouters point to the reality of a game in which the rules may well appear heavily stacked against the non-conformist territorial actor. All contributors nonetheless seem to remain

* Associate Professor at the McGill Faculty of Law and *Inter Gentes: The McGill Journal of International Law & Legal Pluralism* Faculty Advisor.

committed to international law's residual promise, although to varying degrees and with differing agendas. For some clarification is at stake, others normative imagination, and yet others a radical challenge to the law's intellectual limitations. For Irene Watson, for example, speaking from the crucial point of view of the encounter of indigenous peoples with international law (and vice-versa) there is a real doubt about the very possibility of an international law born from the colonial encounter ever being about anything else than that encounter. Hamid and Wouters highlight the fact that dissident territorial actors on the international stage are nonetheless always in demand of international law's recognition. Finally, Otto Spijkers' contribution emphasizes the continued importance of legal imagination as a way to chart a bold prospective normative course to better include global citizens' critical contribution to international law. Although very different in their tone and approaches, it is hoped that this difference will create vivid possibilities for dialogue between different forms of resistance.