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# Reading the Book that Makes One a Scholar

ONUMA Yasuaki\*

## 1 Books That Shape One's Intellectual Persona

In February 2017, my treatise *International Law in a Transcivilizational World* was published by Cambridge University Press. It took me 12 years to complete this book. This treatise (or textbook) covers almost all areas of international law and thus reflects my whole life as an international lawyer, beginning in 1970. When writing the 'Acknowledgement', I naturally considered the many works that had shaped my intellectual persona.

I have borrowed this term 'intellectual persona' from Mireille Delmas-Marty, a globally renowned comparative lawyer. She wrote about the 'ten most important works which have shaped my *intellectual persona*', selecting such eminent works as Hannah Arendt, *The Human Condition*.<sup>1</sup> In my case, too, there are certain works that have shaped my intellectual persona. I would most likely select Carl Schmitt, *Der Nomos der Erde*,<sup>2</sup> and a work from the writings by Hans Kelsen. I would also select works from writers who invite readers to a world filled with unheard voices: Tzvetan Todorov, *La conquête de l'Amérique* (1982), and Amin Maalouf, *Les croisades vues par les arabes* (1983) are two of various books that drew my attention to new pictures. I would further select a few works of literature such as ENDO Shusaku, *The Girl I Left Behind* (1st Japanese ed., 1963),<sup>3</sup> TAKAHASHI Kazumi, *Heretical Faith* (1st Japanese ed., 1963)<sup>4</sup> and Leo Tolstoy, *Walk in the Light While There Is Light* (1st Japanese trans., 1963). These works all exerted a huge influence on me and shaped my intellectual persona.

\* Professor Emeritus, University of Tokyo; Senior Advisor, Oh-Ebashi LPC & Partners, Tokyo, Japan. Email: onuma@u-tokyo.ac.jp. The names of people are expressed with respect to their culture. For example, Chinese, Japanese and Korean names are written family name first followed by their given name. To avoid misunderstanding, their family name is expressed in upper case when both family and given names are provided.

<sup>1</sup> Delmas-Marty, '10 x 10', 8(3) *International Journal of Constitutional Law* 445.

<sup>2</sup> C. Schmitt, *Der Nomos der Erde* (1st ed., 1950; 2nd ed., 1974). See also the Japanese translation (*Daichi no nomos*, Tokyo, 1st ed., 1976; 2nd ed., 2007); French translation (*Le nomos de la terre*, 1988); and English translation (*The Nomos of the Earth*, 2003).

<sup>3</sup> Endo (1923–1996) is a Catholic novelist who consistently sought to face the problem of identity as a Japanese Catholic in Japan, where Christianity is considered alien by most members of society.

<sup>4</sup> Takahashi (1931–1971) is a Japanese novelist who studied Chinese literature and socio-ethical thought, Buddhism, radical socialism and Jainism.

Yet, there is one critical work, the reading of which made me the scholar I am today: Hugo Grotius, *De Jure Belli ac Pacis libri tres* (*JBP*). Only by reading this *magnus opus* meticulously, could I feel that I had become a trained and professional scholar. Only by completing the entire reading of the text and learning to appreciate the various studies on this work, could I become confident that I was standing at the same starting point as Western scholars.

## 2 Why *JBP*?

It was in 1976 when I started reading *JBP* with some 10 (Japanese) members of the Research Group on the Fundamental Theory of International Law (RGFTIL). We were all young beginners. I was 30 years old, and other members belonged to the same generation. No one was an expert in the history of international law. We were driven only by ambition. This ambition was closely associated with our sense of crisis towards the intellectual situation of international legal studies in the post-World War II era.

When I started to study international law in 1970, what attracted me most was the writings of Hans Kelsen. His beautifully well-constructed logical argument and sharp ideology critique grasped the heart of this young scholar. Although in sharp contrast with Kelsen, Carl Schmitt's devilishly attractive, even seductive argument, especially the one in *Der Nomos der Erde*,<sup>5</sup> even more strongly seized hold of my heart. The student movement of 1968–1969 also heavily influenced my attraction to the works of TAKAHASHI Kazumi, Mannheim Károly (Karl Mannheim), and of the Frankfurt School.

For me, whose intellectual persona was strongly influenced by these thinkers, the mainstream study of international law did not look attractive as an intellectual undertaking. This view was shared by members of the RGFTIL. We thought that many of the writings of mainstream positivist international lawyers failed to respond to the intellectual challenges of the time. Thus, we formulated this manifesto:

[A] keen awareness among a group of young international lawyers in Japan of the need to reconsider the methodology and fundamental problems of international law led to the formation of the Group in September 1976. Its purpose is to carry out basic research on the theory of international law, including its validity as law, the normativity and rationalising function of international law, and the relations between international law, and, in particular, international politics, justice, war, structural violence, and colonialism. Through these researches, the Group seeks to clarify its own views, to understand current issues of international law within their philosophical, political, historical, and multi-cultural context ...<sup>6</sup>

<sup>5</sup> Schmitt, *supra* note 2.

<sup>6</sup> ONUMA Yasuaki (ed.), *A Normative Approach to War: War, Peace, and Justice in Hugo Grotius* (1993), Preface, at v. I must confess that we were little concerned with the issue of gender, while I was already engaged in the study of discrimination against minorities. The only gender question I raised – half-jokingly – when we studied *JBP* was, associated with my criticism of mainstream international legal studies to characterize Grotius as the 'father of international law': 'Poor international law, it seems to be born without mother!'

As this ‘manifesto’ states, ‘to understand the classical writings that have influenced the development of modern international law against the historical background in which they were written’ was a *means* ‘of achieving these objectives’.<sup>7</sup> A major reason why we chose *JBP* was that it was long regarded as the most important work in the development of international law, and we wanted to examine this assessment critically. In addition to studying *JBP*, we thought it necessary to study positivism, imperialism, socialism, various regional ‘world orders’ from the 17th to 19th centuries and the globalization of European international law.<sup>8</sup>

We had little knowledge of and about *JBP*. Nor were we trained as historians or experts of the history of ideas. I was fortunate, however, in having studied under the mentorship of a great scholar of the history of Western political thought, FUKUDA Kan-ichi. Just before establishing the RGFTIL, I participated in one of his graduate seminars, where he taught his graduate students by having them read Jean-Jacques Rousseau, *Du contrat social*.<sup>9</sup> This experience gave me the confidence to discuss with other members of the RGFTIL how to read *JBP*.

### 3 Which Text Should One Read?

We naturally thought it desirable to read *JBP* in its original Latin text. However, since only a few of us could read Latin, we had to choose some translations. The Japanese translation, published in 1950–1951, was available, but its quality was not necessarily high.<sup>10</sup> We thus decided to use an English translation and selected the translation by Francis Kelsey et al., published in 1925 (hereinafter the Kelsey translation). It is the translation of the Amsterdam Latin edition of 1646 published as part of the series ‘Classics of International Law’. This edition was published after the death of Grotius, but it contains his last revisions and annotations. Although there are numerous issues with the Kelsey translation, it was – and still is – the translation that is most widely read by international lawyers. We thought it reasonable and practical to use it as our common text.

Since some members could read Latin, we decided to also refer to the Latin text of 1646. We thought it necessary to identify which specific (Latin) terms Grotius adopted

<sup>7</sup> *Ibid.*

<sup>8</sup> We planned to study R. Falk and C. Black (eds), *The Future of International Law* (1972); S. von Pufendorf, *De Jure Gentium et Naturae libri octo* (1684); E. de Vattel, *Le droit des gens* (1758) and other works as well. *Ibid.*, at v–vi. We read the first two books but could not read the third one as a group.

<sup>9</sup> Fukuda was a demanding mentor. I, who had felt that my training as a scholar during the time of my apprentice period (1970–1973) was insufficient, asked him to allow me to participate in his graduate seminars. Although I was already an associate professor of international law, he allowed me to do so, saying that so long as I wanted to study seriously, it did not matter that I was an associate professor and my major was not the history of political thought. By seriously learning how this prominent scholar read *Du contrat social*, I came to be able to read classical works with the necessary tools, techniques and, most importantly, a basic stance towards them.

<sup>10</sup> The quality of Japanese translations of European literature is generally high. We owe greatly to the translated works of major German, French and Dutch literature. See Onuma, *supra* note 6, Select Bibliography, at 387–412.

to express the key concepts translated by Kelsey et al. with such terms as ‘international law’, ‘war’, ‘state’, ‘sovereignty’ and ‘sovereign state’. We further thought it desirable to compare the Kelsey translation with other translations. International lawyers naturally tend to use the translation in their mother language. We wanted to see how different scholars translated the original terms. We finally decided to use the following:

- as our common text, we chose the Kelsey translation;
- as the Latin text, we used that of the 1646 Amsterdam edition (the members capable of reading Latin were assigned to read it and shared their understanding of the Latin text with the other members);
- we further used the following translations for checking to see whether the Kelsey translation was reliable:
  - o *Le Droit de la guerre et de la paix, nouvelle traduction*, Jean Barbeyrac, vols 1–2 (1724);
  - o *Le Droit de la guerre et de la paix, nouvelle traduction*, M.P. Pradier-Fodéré, vols 1–3 (1867); and
  - o *De Jure Belli ac Pacis libri tres*, accompanied by an abridged translation by William Whewell, vols 1–3 (n.d. [1853]);
- moreover, individual members referred to various editions of the Latin text, some of which contained Gronovius’s annotations, the Japanese translation,<sup>11</sup> and the German translation.<sup>12</sup>

Reading *JBP* as a group was a great advantage because we could share and compare the original Latin text and major translations in various languages, many of which one could never read alone.<sup>13</sup>

## 4 Which Related Works Should One Read?

As noted earlier, the members of the RGFTIL were all beginners. Although I had a keen interest in the fundamental theory and history of international law, I had read only a small part of *JBP*. None of us had studied extensively the secondary works on *JBP*. We had to decide what kind of works we should read for interpreting *JBP* precisely, analysing it critically and evaluating it most adequately. One member of our group proposed to read major secondary works on *JBP* before reading the text of *JBP* to secure our minimum understanding. Although somewhat attracted by this idea, we finally decided not to do so. We preferred to start reading *JBP* as if we were in a *tabula rasa*

<sup>11</sup> ICHIMATA Masao, *Senso to heiw no ho*, vols 1–3 (1950–1951).

<sup>12</sup> W. Schätzel, *Drei Bücher vom Recht des Krieges und des Friedens, Paris, 1625: Neuer deutscher Text und Einleitung von Walter Schätzel* (1950).

<sup>13</sup> E.g., we found the French translation by Jean Barbeyrac, who is well known for his translation of Samuel von Pufendorf’s *De Jure Naturae et Gentium*, sometimes too bold. It seemed to exceed the limit of translation, expressing the translator’s own ideas under the name of translation. The German translation, although German jurisprudence in the European legal history is generally of high quality, did not reach the level of quality we had expected. These assessments were possible because we read them as a group and compared them with each other.

position. We knew well that no one can be in such a position. Humans cannot escape from what Mannheim called ‘*Seinsverbundenheit*’ or their existential preoccupations – cultural and civilizational knowledges, feelings and settings. Still, we thought that we should make use of our ignorance rather than reading *JBP* as a smattering.

We were aware of the danger of this ‘*tabula rasa*’ reading. We might easily engage in arbitrary interpretation and evaluation of *JBP*. Therefore, we made our utmost efforts to consult high quality secondary works on *JBP*. We also considered seriously what kinds of related classical works we should read to situate *JBP* in the overall settings of human history. By reading other classical works and the high-quality secondary works on *JBP*, we sought to equip ourselves with the most appropriate tools on and about *JBP* when reading its text.

Naturally, this was easier said than done. It was extremely difficult to *select* the most appropriate classical works and secondary works on *JBP* that we should read. There are certainly important works by international lawyers to be read so long as one seeks to appreciate *JBP* as an international lawyer. Hersch Lauterpacht’s ‘Grotian Tradition in International Law’<sup>14</sup> and the major works by Pieter van Vollenhoven on Grotius<sup>15</sup> are such examples.<sup>16</sup> But is it enough just to read the works of international lawyers? We thought ‘no’. The selection of the works depends on the reader’s fundamental theoretical approach to international law. In this crucial point, ours differed significantly from most of the preceding studies of *JBP* in international law.<sup>17</sup>

## 5 The Problem of Methodology

*JBP* is not only a critical work in the history of international law, but it is also an important work from the perspectives of natural law, war, pacifism, modernity, private law, humanism, Christian theology, European and world history and the history of legal and political ideas. Naturally, one cannot read all of the prominent works from these different fields. One of the important functions of academic discipline is to help concentrate the limited time and ability of a researcher on a selected field of study. The study of international law is one such discipline.

<sup>14</sup> Lauterpacht, ‘Grotian Tradition in International Law,’ in E. Lauterpacht (ed.), *International Law* (1975), vol. 2.

<sup>15</sup> See C. van Vollenhoven, *The Three Stages in the Evolution of Law of Nations* (1919) and other works in the Select Bibliography in Onuma, *supra* note 6, at 410.

<sup>16</sup> The most important work, P. Haggemacher, *Grotius et la doctrine de la guerre juste* (1983), was not available when we started reading *JBP*. It was fortunate for us, however, that we were able to read it, and revise our manuscript, before we published our book in 1987 (in Japanese) and 1993 (in English).

<sup>17</sup> Mainly because of this, our book (Onuma, *supra* note 6) was received with markedly different assessment. Some, especially those familiar with the preceding studies on *JBP*, acclaimed our book. Richard Falk, Peter Haggemacher, Emmanuelle Jouannet, Nicholas Onuf, C.G. Roelofsen and Alfred Rubin are some of these people. Later, I was invited by the *Encyclopaedia Britannica* to contribute an essay on Hugo Grotius to its electronic version and accepted. I assume that it was thanks to such high assessment by Western experts that this leading encyclopedia company made the offer to me, who was an unknown scholar in the ‘Far East’, to write a piece on Grotius. Some senior international lawyers, however, found it difficult to appreciate our approach.

Still, it is necessary to refer to leading studies in the related fields. Those who only know Japan can never fully understand what Japan is. This truth can be applied to any subject of study: to fully understand something, one must compare or refer to other comparable subjects. Only through such an intellectual undertaking, can one meaningfully talk about its characteristics, attributes, or functions. If one only seeks to understand *JBP*, one can never understand it in the true sense of the term.

The members of the RGFTIL shared this conviction. Rather than spending our limited time reading unsatisfactory works on *JBP* by some international lawyers, we believed that we should spend our time reading prominent works by leading scholars in neighbouring disciplines. In more concrete terms, many of the preceding international lawyers' studies paid attention mainly to Francisco de Vitoria, Francisco Suárez, Alberico Gentili, Samuel von Pufendorf, Christian von Wolff and Emer de Vattel and compared Grotius with them. Few international lawyers sought to explore *JBP* in relation to social contract theories.

However, if one seeks to characterize *JBP* in relation to international law – distinctly a modern concept and closely associated with the sovereign states system – one must analyse the concepts of state and sovereignty in *JBP* most carefully, especially by comparing them with those advocated by social contract theorists such as Thomas Hobbes, John Locke and Jean-Jacques Rousseau. It is true that these social contract theorists did not refer to *JBP* extensively. Nor did they develop the theory of the sovereign states *system*.<sup>18</sup> They were concerned with internal, not international, relations of the state. Yet, it was those social contract theorists who created the modern idea of the state composed of individuals who are supposed to establish a sovereign state to overcome the state of nature. It is difficult to explore the problem of modern concepts of (sovereign) states, natural rights and the traditional concepts of natural law, as well as their relations, without referring to ideas adopted by social contract theorists.

## 6 Problems of the Uncritical Projection of Today's Notions onto the Past

Another, closely related, methodological problem is how to locate *JBP* in the historical setting. In more concrete terms, how to appreciate its meaning and functions without *uncritically projecting today's notions onto the past*. This is a crucial problem when reading a classical work in any discipline. However, few international lawyers were aware of this problem when we, the members of the RGFTIL, read *JBP* in the 1970s. Unfortunately, even today, the situation has not changed significantly.

<sup>18</sup> As to the sovereign state and the sovereign states system, see ONUMA Yasuaki, *International Law in a Transcivilizational World* (2017), at 71–74, 89, 213–216, 219–221.

Humans, nature, states, laws, religions and wars – all of these concepts in the days of *JBP* were very different from those in the late 20th to early 21st centuries. Humans did not live as ‘individuals’ as most people assume today. The rights, obligations and other entitlements and burdens of people in 17th-century Europe differed according to their status, such as the head of the household, his wife and children, membership in the village communities or city guilds, various types of peers, sects of Christians, Jews, ‘pagans’ and so on.

The state was not a sovereign state. Nor was it a nation-state. The state did not monopolize public power. Next to the state (or, rather, the king or queen with his or her ruling mechanisms), various kinds of intermediate powers or *corps intermédiaires* existed: peers, churches and other various groups whose power, authority and vested rights and privileges were legitimized by law. They were legitimate authors of ‘war’ – private war (*bellum privatum*). No sharp distinction was made between law and morality, between public law and private law. Although Europeans fought cruel religious wars, they were expected to be pious Christians. They lived in the world where Christianity, deeply rooted in their life as social ethics, prevailed. The reputation of being a good Christian did matter for the ruler.<sup>19</sup> Against such a background, the Latin terms that are generally translated by later scholars to such terms as ‘states’, ‘sovereignty’, ‘individual’, ‘moral(ity)’, ‘nation’, ‘cause’ and ‘international law’ had very different meaning from what we, the people in the 21st century, generally assume. Whether those terms are adequate in translating *JBP* involves extremely difficult problems.<sup>20</sup>

Fundamentally, Grotius did not have the dualistic scheme sharply distinguishing individuals and the (sovereign) state. Whereas the modern concept of the individual assumes humans stripped of the authority to rule others and the legitimate means of violence, the term *privatus* in *JBP* that Grotius generally used, in contrast to the public entity with supreme governing power (such as *civitus*, *potestus publica* and *maxime summa*), assumes a head of the household (*patersfamilia*) or other entities vested with such authority and legitimate means of violence.<sup>21</sup> The world in *JBP* was neither the international society composed of (sovereign) states nor human community composed of individuals. The most important law expected to regulate and restrain states that may resort to ‘war’ was not *jus gentium*, which is sometimes translated as international law, but, rather, natural law (*jus natrae*, *jus natralis*, *lex natralis* and so on). *Jus gentium* was just one body of multi-layered norms expected to regulate and restrain the arbitrary acts of states, kings, peoples and other powers, which may resort to armed acts of violence.<sup>22</sup>

<sup>19</sup> Grotius dedicated *JBP* to King Louis XIII, whom he characterized – following the practice of his time – as ‘the most Christian King’.

<sup>20</sup> See Onuma, *supra* note 6, at xv *et passim*. It is regrettable that even the recent literature does not pay sufficient attention to this critical problem. See, e.g., the terminology of sovereignty and sovereign state in R. Tuck, *The Rights of War and Peace* (1999).

<sup>21</sup> Onuma, ‘War’, in Onuma, *supra* note 6, at 98–121; Onuma, ‘Conclusion: Law Dancing to the Accompaniment of Love and Calculation’, in *ibid.*, at 334–338.

<sup>22</sup> TANAKA Tadashi, ‘Grotius’s Concept of Law’, in Onuma, *supra* note 6, at 44–45; KASAI Naoya, ‘The Laws of War’, in *ibid.*, at 244–247; Onuma, ‘Conclusion’, in *ibid.*, at 340–346.

## 7 *JBP*: A Book Serving the Practical Aim to Minimize Bloodshed

*JBP* was designed to achieve the practical aim of regulating and restraining war against such a historical background by means of a multi-layered normative structure, which Grotius called *jurisprudentia*. This practical aim is not only expressed in the famous passages in Prolegomena 28 (and 29). The conclusion that *JBP* should be read as a book serving the practical objective of minimizing bloodshed emerges, ineluctably, from its whole structure and argumentation. *JBP* cannot be understood as a coherent and consistent treatise unless it is read in this way.<sup>23</sup>

Being written with such practical aim of regulating and restraining war, *JBP* must be effective in achieving this objective. Even if *JBP* had been beautifully constructed as a theoretical work, such a ‘pure theory’ would have been of little use for Grotius had it been ineffective in achieving its practical goal. Grotius proclaimed in the Prolegomena that he would construct *jurisprudentia* in writing *JBP*, and he refused to discuss the problem of utility.<sup>24</sup> Yet, he did not hesitate in resorting to utility-oriented arguments (or calculations) in *JBP*, when he found it necessary to maximize his persuasive power in achieving his fundamental aim of minimizing bloodshed.<sup>25</sup>

What place did ‘international law’ occupy in such a treatise? Among the various laws Grotius addressed in constructing his *jurisprudentia*, the most important dancer of the Grotius company was not *jus gentium*, but natural law. Yet, Grotius, who was not a pure theoretician but, rather, a man of practical experience as a civil servant and politician, knew well that even this *prima donna* of natural law could not alone achieve his overarching goal of restraining the bloodshed of war. It was the multi-layered norms, including not only diverse forms of ‘law’ but also the teachings of Christianity, functioning as social ethics and accompanied by calculation or utility-oriented considerations, that danced at the centre stage of *JBP*.<sup>26</sup> To the extent that such multi-layered norms regulated the acts of states in their relations, one may be able to argue that they included ‘international law’. Yet, this ‘international law’ was not categorically distinguished from municipal laws and occupied only a minor part of the comprehensive multi-layered normative structure.<sup>27</sup>

## 8 How to Overcome the West-centric Way of Thinking in the History of International Law

Grotius spent his life as a Dutch scholar, diplomat and politician. When he wrote *De jure pradae commentarius*, and published a part as *Mare liberum* in 1609, he apparently justified the colonial policy of the Netherlands. And *De jure pradae* constituted a basis

<sup>23</sup> Onuma, ‘Conclusion’, in *ibid.*, at 333–334, 355–357.

<sup>24</sup> *JBP*, Prolegomena 6, 11, 22, 23, 30, 31, 57.

<sup>25</sup> Onuma, ‘Conclusion’, in Onuma, *supra* note 6, at 347–351, 355–357.

<sup>26</sup> *Ibid.*, at 353–357.

<sup>27</sup> *Ibid.*, at 338–357 *et passim*.



of *JBP*. Yet, this does not necessarily mean that Grotius wrote *JBP* for such a colonial purpose.<sup>28</sup> To interpret *JBP* as a work pursuing a colonial purpose would distort the entire picture of *JBP*.<sup>29</sup> As elaborated earlier, its critical purpose is to minimize bloodshed associated with war. It is difficult to deny this interpretation if one reads *JBP in toto* and as a coherent work.

Yet, this does not necessarily mean that *JBP* has not played an ideological and social constructive role to justify the Euro- (and, later, West-) centric world structure. To regard *JBP* as the foremost work of international law and the Peace of Westphalia in 1648 as the starting point of modern international relations is closely related to the West-centric way of thinking, prevalent today on a global scale. From the perspective of contemporaries of the 17th century, however, the Peace of Westphalia had a critical meaning just for Europeans, who experienced disastrous religious wars. The significance of *JBP* was also limited to Europeans when it was published in 1625. Grotius assumed the universality of his natural law doctrine, but this was a *universalism* only shared by contemporary Europeans. An overwhelming number of people living outside of Europe did not share his idea.<sup>30</sup> Such a Euro-centric idea came to be accepted globally only after the 19th century.

The Euro-centric power structure became prevalent by overwhelming competing universalistic orderings of the world such as the Sino-centric tributary system or Islamo-centric *siyar*. This prevalence of the Euro-centric ordering of the world was not only economic and military but also ideational. Euro-centric international law expanded its sphere of applicability as a part of the expansion of European powers from the 15th to the 20th century. The Europeans denied the applicability of Islamo-centric *siyar*, the Sino-centric tributary system and other universalistic, but regional, orderings of the world, which had been shared by far larger numbers of humanity than Europeans.<sup>31</sup>

International law, as a system including the study of international law, constitutes an important part of this ideational power structure.<sup>32</sup> It played an ideological function to coordinate the European powers and to justify the European colonial rule by

<sup>28</sup> If seen from a colonial and post-colonial perspective, Francisco de Vitoria's *De indis* occupies a far more important position than *JBP*. See Onuma, 'Appendix: Eurocentrism in the History of International Law', in Onuma, *supra* note 6, at 371–386, especially 382–386. See also Onuma, *supra* note 18, at 75–77; Schmitt, *supra* note 2 (German edition), at 69–96.

<sup>29</sup> Tuck characterizes Grotius as an ideologue of Dutch colonialism by over-emphasizing such aspects in *JBP*. Tuck, *supra* note 20, at 102–108. It is difficult to support this interpretation.

<sup>30</sup> Some common elements existed between the natural law doctrine and other universalistic ideas such as Confucianism, as interpreted by ZHU Xi, a leading Confucian who exerted great influence in East Asia since the 12th century. This is one of the reasons why some non-Western leaders argued that their nations must accept international law when they encountered it in the 19th century. Although becoming positivistic, major treatises of international law that those non-Western leaders read still held some elements of natural law doctrine. However, this does not mean that the 'universality' assumed by natural law doctrine was valid on a global scale in the 17th century.

<sup>31</sup> Onuma, *supra* note 18, at 75–77; ONUMA Yasuaki, *A Transcivilizational Perspective on International Law* (2010), at 320–348.

<sup>32</sup> *Ibid.*, at 156–179; Onuma, *supra* note 18, at 44–55.

providing ideational tools for their coexistence and cooperation. *JBP* has been considered the foremost classic of this West-centric international law. Together with the Peace of Westphalia, the name of Hugo Grotius and his masterpiece, *JBP*, was referred to during Westernization. Even if Grotius did not write *JBP* for justifying Dutch colonialism, the overall ideological and social constructive function of Grotius and *JBP* for European colonialism cannot be denied.

## 9 To Repeat: Reading the Book That Makes One a Scholar

Readers can find most of the analyses, interpretation and conclusions on *JBP* as described above in our book, *A Normative Approach to War* in a more detailed manner.<sup>33</sup> They are based on our reading of *JBP* from 1976 to the 1980s and may have to be corrected by subsequent studies. Yet, although done 40 years ago, I am still confident of the overall quality and depth of our analyses, interpretation and conclusions.<sup>34</sup> Why? It is because the contributors strictly followed the method of reading described earlier. We were all young and ignorant but knew well that we were ignorant. We therefore made serious efforts to overcome such ignorance and to achieve the highest quality of our reading of *JBP*. By the collective group reading of *JBP* and other related works, we could more extensively examine different versions of *JBP* and relevant studies than we could have done individually.<sup>35</sup> After reading the entire text in 1978, we assigned specific themes to individual members who were expected to write from one to several chapters of the book we planned to publish. After mutually criticizing our drafts, we published the book in Japanese in 1987.<sup>36</sup> Finally, the English version of our book, *A Normative Approach to War*, was published by Clarendon Press in 1993.<sup>37</sup> The book was well received by reviewers.<sup>38</sup>

<sup>33</sup> Onuma, *supra* note 6.

<sup>34</sup> I am a prolific scholar and am ready to concede that many of my works will not last long. Yet, *A Normative Approach to War* is a work that I can invite my colleague students of international law to read with an assurance of reliability.

<sup>35</sup> We assigned a part of *JBP* and secondary works to individual members, who were expected to share his or her reading with other members. We had regular meetings twice per month and spent several days in vacation periods at a hotel, concentrating our time on examining *JBP*. We spent two years reading the full text of *JBP*.

<sup>36</sup> E.g., I wrote the chapters of introduction, war, agreement and conclusion. In addition, I wrote a short essay on Euro-centrism in the history of international law in the form of an Appendix.

<sup>37</sup> James Crawford, who is now a judge at the International Court of Justice, but was a professor at the University of Sydney, contributed greatly to the editorial work of the English version.

<sup>38</sup> Alfred Rubin, professor at Fletcher School of Diplomacy, wrote that 'Onuma's essay [Conclusion] replaces Lauterpacht's ['Grotian Tradition,' see *supra* note 14] as the persuasive interpretation of Grotius of our time and possibly for generations to come', characterizing our book as 'a magnificent study, particularly useful for its freedom from European biases, placing Grotius in historical and jurisprudential context in a way that frees us from the burden of tendentious misinterpretations'. Rubin, 'Grotius Nunc Pro Tunch', 16(3) *Michigan Journal of International Law* (1995) 645, at 652. See also a stimulating review of Robert Chu, 'Grotian Encounters', 35(2) *Harvard International Law Journal* (1994) 595.

Some readers may find our reading of *JBP* too meticulous, demanding and time-consuming.<sup>39</sup> It is true that we were demanding of each other and that our reading seems excessively thorough. However, I firmly believe it was worthwhile. Even without reading *JBP* in this way, I could have spent my life as an international lawyer. However, I am not sure whether I would have been confident enough when addressing issues of international law, which was a modern European construct, without having devoted my time to the reading of *JBP*.

Reading a classical work such as *JBP* is oftentimes cumbersome. It sometimes appears to be almost a waste of time. Only a very special, strong-willed person may be able to read it. If you study alone, this may be the case. But there is another way. If you organize a study group of members who share a common determination, then you can carry out such an onerous – yet worthwhile – task. What members of the RGFTEL, living in the ‘Far East’ as youngsters, carried out was this task.<sup>40</sup> If such disadvantaged beginners could do this in the 1970s, then you, living in the 21st century with advanced technology, can do it as well.

If only you have the will.<sup>41</sup>

<sup>39</sup> Compared with the members of the RGFTEL, today’s (and future) scholars can enjoy technological improvement in two ways. First, Internet technologies make it easier for them to access without charge major classical works. Second, technological progress in translation makes it easier to refer to literature written in languages other than one’s own. Such technological progress will reduce the burden of the method described in this essay.

<sup>40</sup> Though located geographically far away and culturally alienated from the centre of West-centric academic activities, I must admit that the members of the Research Group on the Fundamental Theory of International Law were privileged in studying in Japan, when compared with other non-Western nations. Since the encounter with Western powers in the 19th century, Japan has made serious efforts to keep up with them not only in economic and military terms but also in cultural terms. When we read *JBP* in the 1970s, we could make use of various fruits of such Japanese efforts. High-quality translation of major European literature, well-equipped library facilities and high-quality academic works in neighbouring disciplines are some examples.

<sup>41</sup> Reading a classical work by using the method described above is not only valid for those in a disadvantaged position to appreciate international law. With the resurgence of Asian nations in the 21st century, Western scholars who have been in a privileged position to appreciate international law will likely find it necessary to study prominent non-Western ideas, belief systems, cultures and civilizations. They may have to read the *Qur’an*, *Analects*, *Mahabharata* and other classical works without the ability to understand Arabic, Chinese, Sanskrit and so on. However, if one adopts the method described in this essay, especially with the help of technologies noted in note 39 above, one can enjoy reading such scriptures and classical works as the members of the RGFTEL enjoyed reading *JBP*.