The Twelve Years Truce (1609)

Peace, Truce, War and Law in the Low Countries at the Turn of the 17th Century

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Introduction

Randall Lesaffer

On 9 April 1609, the representatives of the States General of the Republic of the United Provinces of the Northern Netherlands and the representatives of the Archdukes Albert and Isabelle, sovereign lords of the Southern Netherlands, signed a truce for twelve years at Antwerp. On 7 July, the Spanish King Philip III ratified the Treaty at Madrid, putting his signature under a text that implied the, albeit temporary, recognition of the United Provinces as free states. The Treaty suspended the hostilities between the rebellious Northern Netherlands and the Spanish Monarchy that had first erupted in 1567 and which had grown into a major, full scale war and spilled over into the Indies. After the expiration of the truce in 1621, war resumed until the final peace settlement at Munster of 30 January 1648 put an end to what has become known as the Eighty Years War (1567–1648).

The Twelve Years Truce is a major event in the national political and constitutional history of the Netherlands. Although formally speaking, the recognition of its freedom by Spain was temporary, it was a crucial step in the birth of the Republic as a sovereign power. The Peace Treaty of Munster would add little to that, except for the definite acquiescence by Spain to a reality that had by then existed and had hardly been seriously contested for almost four decades. The text of the Peace Treaty itself was largely copied from the Twelve Years Truce.

The scope of this book is not limited to the significance of the Twelve Years Truce in Dutch national history. The Antwerp Treaty is rather looked upon as an event through which to study the turmoil and upheaval that marked the international order of Europe and the law of nations at the time. The period running from the early 16th to the midst of the 17th century saw a fundamental transition of the international order of Europe. At its beginning stood the late-medieval order of the respublica christiana, a conglomerate of a myriad of diverse political entities which all enjoyed a measure of autonomy but at the same time formed a certain political and legal unity under the supreme, if highly theoretical overlordship of the pope and the emperor. Under this system, the law regulating inter-power relations, the jus gentium, did not as yet form an autonomous body of law but was part and parcel of the law at large. At its end stood the modern states system and its classical law of nations – the jus publicum Europaeum – as an autonomous body of law. This new order and law became established in the decades that followed the Westphalian Peace Treaties (1648).
This transition was overshadowed by great unrest and upheaval. Three major factors drove the change. First, there was the Reformation which brought an end to the religious unity of the Latin West and collapsed the authority of canon law and papal jurisdiction upon which the fabric of European political and legal order ultimately rested. What had been the foundation of European unity now became a factor of division. Second, the 16th century saw the rise of dynastic power-complexes which liberated themselves from the final vestiges of the ‘universal’ authority of emperor and pope and started the drawn-out process of internal centralisation and state formation, breaking the mould of the complex mixture of hierarchy and freedom that was the hallmark of late-medieval order. Third, the discoveries, trade and conquests by European power in Asia, Africa and America set new questions on the agenda of international relations and law to which the old medieval \textit{jus gentium} did not have ready answers.

Halfway through the 16th century, the old European order was in shambles. What followed was a long period of destabilisation at the heart and fringes of the old Latin West, with internal political strife, religious war and endemic international war, culminating in the greatest conflict of all, the Thirty Years War (1618–1648). These were hardly the conditions for a new consent on the political and legal order of Europe to arise. For this, one had to await the midst of the 17th century when the Westphalia Peace Treaties put an end to the Thirty and Eighty Years Wars.

Although the century running from the midst of the 16th to the midst of the 17th century failed to bring consent on a new stable order, it was a period in which the order of Europe and the law of nations stood high on the agenda and which in the end proved very productive and inspirational for the new order that was to be articulated after 1648. As it is widely recognised in the historiography of international law, it was the period in which the law of nations started to emerge as an autonomous intellectual discipline with its own literature through the endeavours of both theologians and jurists, chiefly among whom stands the Dutch humanist Hugo Grotius (1583–1645). But also diplomatic practice was rife with changes and experiments in the ways ‘international’ relations and transactions were legally organised. Whereas many old customs and practices from the late Middle Ages were rehearsed and recycled, they often had to be adapted to the changing context of state formation, religious diversity, the expansion of Europe and the shifting nature of war and trade. Many of the changes and innovations of the late 16th and early 17th centuries would later find their way into the classical law of nations.

The Twelve Years Truce offers a uniquely fascinating prism through which to look at the colours and shades of the turmoil and change of the international
order of Europe at the turn of the 17th century. The Antwerp Truce was a major diplomatic event in Europe. It brought a temporary end to a long-lasting and large-scale conflict which had deeply wounded the leading power of the time, the Spanish Monarchy, and sucked in other powers, including the French and English. The Treaty itself did not only involve the Republic, the Archdukes and Spain but also the French and English kings, whose representatives acted as mediators. But even more to the point, the conflict which was suspended by the Antwerp Truce reflected in every respect the turmoil of the age. The conflict between the Netherlands and the Spanish Monarchy was an example, only rare in its extent and success, of local elites resisting the policies of centralisation of the prince. It also rapidly turned into a religious war, with time seeing the borderlines drawn between a catholic south loyal to the Spanish King and a rebellious north dominated by Calvinists. Already from its earlier stages, the war in the Low Countries expanded into a major international conflict as the enemies of the Spanish Monarchy intervened on the side of the northern rebels and the conflict became a new nucleus for anti-Habsburg coalitions. The break with Spain also brought the merchants and navigators from the rebellious provinces to venture on their own into the Indies and mount a successful challenge to the Portuguese and Spanish claims to monopoly of trade and navigation there.

But the Antwerp Truce itself is also of a more direct relevance to the historiography of international law. First, there was the involvement of Grotius, whose treatise Mare Liberum was published in the context of the negotiations of the Truce.1 Second, the Antwerp Treaty forms an interesting document from the perspective of the growth of the tradition of modern European peace treaties. Although it was not a definite peace but a truce, the Antwerp Treaty was an extremely elaborate legal instrument, containing many detailed regulations about the suspension of the state of war and the restoration of normal peaceful relations, thus being highly informative for the laws of war and peace of the period. To some extent, it was also constitutive to the laws of war and peace of the later 17th and 18th centuries as the Antwerp Truce and its additional, interpretative treaties of 1610 served as the textual basis for the Peace Treaty of Munster.2 Through the central role Dutch diplomacy played in the

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peacemaking efforts of the later 17th and early 18th centuries, some of the Antwerp Truce would thus find its way into the lore of great European peace treaties of the classical law of nations.3

The essays collected in this volume fall into three groups. Part I: ‘Truce and Peace’ consists of four essays. The first, introductory chapter by Paul Brood places the Antwerp Truce in the line of great constitutional texts of the Dutch Republic, highlighting its relation to the Munster Peace Treaty. The contributions by Alicia Esteban Estríngana, by Bram de Ridder and Violet Soen and by Alain Wijffels delve into three phases of the diplomatic pre-history of the Antwerp Truce negotiations. They cover the drawn-out process of efforts by Madrid to disentangle from war in the north but with ultimately failed to secure a lasting peace.

Part II: ‘Truce and War’ collects three essays dealing with matters of war and alliance. Peter Borschberg addresses the consequences of the Truce for the Dutch prior war-time alliance with the Kingdom of Johor in the East Indies. Olaf van Nimwegen covers tactical military reforms in the Dutch army in the period before and under the truce while Tim Piceu offers an in-depth-study of the Antwerp settlement in relation to contributions.

Part III: ‘Truce and Law’ turns to the legal context and implications of the truce, both constitutional as well as international. Beatrix C.M. Jacobs tries to assess the legal implications of the recognition of the United Provinces as free states while Georges Martyn discusses the position of the Archdukes as sovereign princes of the Southern Netherlands. Carlo Focarelli offers a general outline of the role of the early modern jurisprudence of the law of nations in the transition from to modernity, focussing on the subject of diplomatic immunity. Randall Lesaffer, Johanna Waelkens and Erik-Jan Broers use the unique history of the Antwerp Truce and the Munster Peace Treaty and their close interrelation to try to assess the character and implications of a truce under the laws of war and peace. Bernd Klesmann discusses the reference to peace and truce agreements for the justification of new wars. Finally, Werner Thomas’s essay discusses the consequences of the 1604 English-Spanish Peace Treaty and the Antwerp Truce for religious policy and relevant law in the Netherlands and the Spanish Monarchy.