GENEALOGY OF A BATTLEFRONT

*Natasha Wheatley**

International Law and the Politics of History is a major statement on international legal methodology from one of the field's most astute and creative scholars. Anne Orford draws together and extends methodological reflections developed over many years into a searching critique of modes and means of grounding international legal argument. She entreats international lawyers to own the politics of their interventions and forsake the clutch of epistemic foundations drawn erroneously from other disciplines. She makes the case through a pointed critique of international law's "turn to history" and historians' contextualist methodology.[1] How did history become the sign and signal of all that is wrong with international legal scholarship, the most significant malaise stymying the field's better selves and futures? In what follows, I explain how we got here. I chart the emergence and development of a tense cross-disciplinary encounter between law and history—a minor methodological war in which Orford emerged as the most important and articulate protagonist. This pre-history to *International Law and the Politics of History* is excerpted from an essay published in *History and Theory* in 2021. The longer essay, called "Law and the Time of Angels," builds from this debate to offer a more anthropological account of law's idiosyncratic arrangement and use of time.[2]

HOW TO START A WAR

From his (self-described) "lair" in Brisbane, Australia, revisionist historian Ian Hunter has built an unconventional but consequential career as an antimetaphysical warrior.[3] With unsleeping vigilance, he sniffs out and exposes closet transcendentalisms, whether the hunting ground is Enlightenment philosophy or contemporary historical theory—or international law.[4] In the portentously titled

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1. ANNE ORFORD, INTERNATIONAL LAW AND THE POLITICS OF HISTORY 1 (2021).

2. Natasha Wheatley, *Law and the Time of Angels: International Law's Method Wars and the Affective Life of Disciplines*, 60 HIST. & THEORY 311, 313 (2021). The following segment is reproduced with kind permission of *History and Theory* and Wiley. The original is subject to copyright © 2021 Wesleyan University.

3. E-mail from Ian Hunter, Emeritus Professor, The Univ. of Queensland, to Natasha Wheatley, Assistant Professor of Hist., Princeton Univ. (June 4, 2019) (on file with author).

4. Hunter's legendary reinterpretation of Enlightenment philosophy is IAN HUNTER, RIVAL ENLIGHTENMENTS: CIVIL AND METAPHYSICAL PHILOSOPHY IN EARLY MODERN GERMANY xii (2001). Highlights from his more recent work on the history of theory include Ian Hunter, *The History of Theory*, 33 CRITICAL INQUIRY 78 (2006). This inspired a critical response from Fredric Jameson. *See* Fredric Jameson, *Critical Response I: How Not to Historicize Theory*, 34 CRITICAL

Global Justice and Regional Metaphysics, he set his sights on Antony Anghie's brilliant, field-shaping *Imperialism, Sovereignty and International Law*, the cornerstone and standard-bearer of the Third World Approaches to International Law (TWAIL) movement.[5] If the intellectual path from Kant to Derrida and then to postcolonial legal scholarship seems hard to plot, Hunter's prey in each domain turns out to be the same (namely, a reliance on transcendental forms), just like his intervention: Relentlessly, even ruthlessly, he historicizes those claiming to see beyond the world of empirical experience to grasp deep underlying truths, hidden structures, or irruptive universalisms.[6] To a degree that outstrips most any other historian, contextualizing apparent contextlessness is his vocation.

It is not entirely unexpected, then, that he might play Gavrilo Princip in the method war's opening skirmish, firing the shots that set a dry tinderbox ablaze;[7] this leaves Anghie as Franz Ferdinand, legal scholarship's prince and heir apparent.[8] Anghie's powerful work forever changed the way we understand the history of international law. Challenging a narrative that framed European sovereignty as an attribute belatedly extended to the waiting world through decolonization, he showed how notions of perfect European sovereignty always already relied on a non-sovereign (or imperfectly sovereign) non-European other. Empire, in other words, was not extraneous to the emergence of modern international law but lodged deep in its core.[9] Following this insight across time, Anghie tracked the exclusionary, Eurocentric hierarchies that have structured international law from its early modern origins through to the contemporary world system.

Hunter questioned the conceptual assumptions that made Anghie's analysis possible or thinkable. One could only critique the early modern law of nature and nations as unjust and particularistic (that is, as Eurocentric) if one presumed that a "true universalism or cosmopolitanism" existed in the first place and "was in principle available to the early moderns, thereby allowing us moderns to find them

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INQUIRY 563, 564 (2008). It also inspired a rejoinder from Hunter in which he declared that "there is even something nostalgic in Jameson's more extravagant denunciations of the essay and its author when treated as symptomatic of the antitheory ideology of late capitalist (anti-) intellectual apostasy"! Ian Hunter, *Critical Response II: Talking About My Generation*, 34 CRITICAL INQUIRY 583, 583 (2008).

5. *See* Ian Hunter, *Global Justice and Regional Metaphysics: On the Critical History of the Law of Nature and Nations*, *in* LAW AND POLITICS IN BRITISH COLONIAL THOUGHT: TRANSPOSITIONS OF EMPIRE 11, 11 (Shaunnagh Dorsett & Ian Hunter eds., 2010) [hereinafter Hunter, *Global Justice and Regional Metaphysics*]; *see also* ANTONY ANGHIE, IMPERIALISM, SOVEREIGNTY AND THE MAKING OF INTERNATIONAL LAW 20 (2007).

6. The recurring structure of these interventions has led Knox Peden—in a move that flips the signs, not unlike Hunter's critique of Anghie—to argue that Hunter abandoned his own commitment to contextualism and regionalism in projecting the distinction between the civil and the metaphysical, between history and theory, drawn from his work on early modern *Schulmetaphysik*, into his more recent work on the history of theory. *See* Knox Peden, *The Burden of Intelligibility*, 40 HIST. EUR. IDEAS 70 (2014).

7. On Gavrilo Princip's assassination of the Habsburg heir apparent, Archduke Franz Ferdinand, in Sarajevo in June 1914, which served the proximate trigger for World War I, see CHRISTOPHER CLARK, THE SLEEPWALKERS: HOW EUROPE WENT TO WAR IN 1914 (2012).

8. *Id.*

9. ANGHIE, *supra* note 5, *passim.*

culpably blind and venal for failing to realise it."[10] Rather than reconstructing contextually what *jus gentium* meant in any given time period, which was the approach favored by Hunter, scholars like Anghie judged *jus gentium* discourses against a global understanding and spatialization of justice that was foreign to the historical figures in question. Driving accounts like Anghie's was a *normative* concern with what international law *should* have been, founded on an implicit universalism, a yardstick from which one might measure and condemn its deviant particularism. Such analyses could only muster intellectual coherence if one assumed "that there is a global principle of justice capable of including European and non-European peoples within the 'universal history' of its unfolding."[11] As a result, such accounts were not only "dogged by debilitating anachronism and 'presentism'" but worse.[12] Not one to leave any knife untwisted, Hunter reversed the signs, declaring that the Eurocentrism inhered instead in the postcolonial position: the presumption of a "norm of global justice" (whether in the notion that all nations have the right to self-determination, or a principle of cosmopolitan right, or so on) amounted to "neither more nor less than the iteration of a series of regional European metaphysical cultures, each claiming to constitute a universal norm of 'international justice.'"[13]

As with the events in 1914, it could hardly remain a local conflict: the attack triggered a system of alliances and drew in the major powers. Anne Orford staked a broader disciplinary battlefront. Hunter's critique of Anghie resonated in light of those Orford received for her own trailblazing book, *International Authority and the Responsibility to Protect*, which, in segueing between Hobbes, Schmitt, and Hammarskjöld, elicited cries for greater attention to the disparate contexts in play.[14] She set about forging a common front against the evident methodological imperialism and supposed methodological superiority of the historians, looking to define and defend a position that resisted the idea that the historian's toolbox in general—and contextualism in particular—amounted to the only way of accessing law's pasts.[15] Having previously embraced contextualism and censured instances of anachronism, Martti Koskenniemi, the most prominent of all historians of international law, declared himself won over and "inspired" by Orford's arguments, and penned his own denouncements of historians' contextualism so that we can read their positions together.[16]

Orford and Koskenniemi did not so much refute specific historical critiques—

10. Ian Hunter, *The Figure of Man and the Territorialisation of Justice in 'Enlightenment' Natural Law: Pufendorf and Vattel*, 23 INTELL. HIST. REV. 289, 290 (2013) [hereinafter Hunter, *The Figure of Man*].

11. Hunter, *Global Justice and Regional Metaphysics*, *supra* note 5, at 11–12.

12. Hunter, *The Figure of Man*, *supra* note 10, at 289.

13. Hunter, *Global Justice and Regional Metaphysics*, *supra* note 5, at 14.

14. ANNE ORFORD, INTERNATIONAL AUTHORITY AND THE RESPONSIBILITY TO PROTECT 109–38 (2011).

15. *Id.*

16. *See* Martti Koskenniemi, *Vitoria and Us: Thoughts on Critical Histories of International Law*, 22 RECHTSGESCHICHTE LEGAL HIST. 119, 123 (2014) [hereinafter Koskenniemi, *Vitoria and Us*].

whether they were Hunter's or someone else's—as assail (what they have understood to be) a Cambridge School approach to past concepts and texts. Both acknowledge the utility of contextualism—especially in overcoming long-dominant evolutionary narratives of "the progress of humanity."[17] Yet Quentin Skinner's method rested on a clean separation of past and present, so where, Orford wondered, did this leave disciplines like law, which resisted "such an easy temporal division? What kind of method is appropriate to a discipline in which judges, advocates, scholars and students all look to past texts precisely to discover the nature of present obligations?"[18] Throwing off the yoke of historical method with emancipatory zeal, Orford proclaimed the "legitimate role of anachronism in international legal method."[19] As a lawyer, one learned precisely "how to make a plausible argument about why a particular case should be treated as a binding precedent, or why it should be distinguished as having no bearing on the present."[20] The art, then, consisted "in knowing (or perhaps choosing) which precedents should be invoked to make the present intelligible."[21] As a result, the "proper context for understanding the legal meaning of a statement or text is not given, and is certainly not determined by chronology."[22] Time was made and remade in each legal argument, and sequence had little or nothing to do with it. In erecting an "artificial border between the past and the present" and locking up meaning in contextual silos, methods from intellectual history fundamentally misunderstood and derailed the production of "meaning and understanding" in international law.[23]

Passions were high because the stakes were too. Contextualism did not just derail legal meaning, argued Orford and Koskenniemi,[24] it also derailed progressive politics. Far from an isolated technical matter, methodological questions bled into one's sense of self in the world—into a practitioner's commitments and purpose, ethical orientation, and apprehension of the future (both the field's and the world's). The turn to history produced a "conservative effect on international law scholarship," Orford lamented.[25] Koskenniemi agreed: "the contextual view poses a

17. *Id.* at 120.

18. Anne Orford, *On International Legal Method*, 1 LONDON REV. INT'L L. 166, 171 (2013) [hereinafter Orford, *On International Legal Method*]; *see also* Anne Orford, *International Law and the Limits of History*, *in* THE LAW OF INTERNATIONAL LAWYERS: READING MARTTI KOSKENNIEMI 297, 302 (Wouter Werner et al. eds., 2017) [hereinafter Orford, *International Law and the Limits of History*].

19. Orford, *On International Legal Method*, *supra* note 18, at 175.

20. *Id.* at 172.

21. Anne Orford, *The Past as Law or History?: The Relevance of Imperialism for Modern International Law* 9 (IILJ Working Paper No. 2012/2, 2019) [hereinafter Orford, *The Past as Law or History*].

22. Orford, *On International Legal Method*, *supra* note 18, at 175.

23. Alexandra Kemmerer, *"We Do Not Need to Always Look to Westphalia . . .": A Conversation with Martti Koskenniemi and Anne Orford*, 17 J. HIST. INT'L L. 1, 2 (2015); Orford, *International Law and the Limits of History*, *supra* note 18, at 304; *see also* Orford, *On International Legal Method*, *supra* note 18, at 172–75.

24. *See* Orford, *International Law and the Limits of History*, *supra* note 18, at 301–06; Koskenniemi, *Vitoria and Us*, *supra* note 16, at 122.

25. Orford, *International Law and the Limits of History*, *supra* note 18, at 301.

real challenge for any effort to write critically about international law's past."[26] By "insisting on the separation of chronologically distant moments from each other and the illegitimacy of producing judgments across contextual boundaries," contextualism quarantined the past from contemporary political discussions and mandated "a troubling, ultimately uncritical relativism."[27] TWAIL scholars had taken a different approach.[28] They developed "arguments about contemporary political problems that draw on inherited concepts with a history of legal meaning attached to them."[29] Historical critiques of the resulting "ahistoricism" were thus being used "to shut things down, to police, to constrain new work in a discipline, or make it harder to ask certain questions."[30] Contextualism was dangerous—a Trojan horse full of hostile political forces threatening to neuter these bids for a better world:

> The effect of the argument that historical method should replace legal method as the means of engaging with the past of international law means that critical practitioners lose the capacity to intervene in development of the law. As a result, international lawyers who have been trained in the techniques and languages of international law are asked to give up responsibility for creating a less repressive future for the field.[31]

Contextualism was a suffocating experience of time that lopped off access to (a living) past and (a desired) future. The historicist handicapping of progressive legal argument was all the more illegitimate because the latter's transcontextual mode of reasoning simply replicated legal method more broadly: "the 'TWAIL' approach," Orford asserted, "could equally be called a 'juridical approach.'"[32]

The notion that true legal argumentation, uncorrupted by historicist methods, is in essence one and the same thing as the progressive or postcolonial critique of law might seem surprising to some readers.[33] After all, law's perpetuation of inherited meaning and its preference for forms of the past are usually understood as modes of its structural *conservatism*—its deep investment in the established social order—

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26. Koskenniemi, *Vitoria and Us*, *supra* note 16, at 122.

27. *Id.* at 129, 127. Koskenniemi went so far as to write that "historians of international law must accept that the validity of our histories lies not in their correspondence with 'facts' or 'coherence' with what we otherwise know about a 'context,' but how they contribute to emancipation today." *Id.* at 129. This led one of the respondents, historian Andrew Fitzmaurice, to ask "but who is to judge which causes are emancipatory and, once such principles of historical practice are accepted, who is to restrict such practices to questions of emancipation? Reactionary and conservative political programs . . . have always had their own versions of history, and arguably the most dominant ones. . . . Should historical debate be reduced to rhetorical arguments between contesting political positions? Should historians be uninterested in establishing criteria for contesting the truth of historical claims? Which position is relativistic?" Andrew Fitzmaurice, *Context in the History of International Law*, 20 J. HIST. INT'L L. 5, 13 (2018).

28. *See* Orford, *International Law and the Limits of History*, *supra* note 18, at 304.

29. *Id.*

30. *Id.*

31. *Id.* at 312. According to Orford, a "more professional form of history writing" is thus "the wrong direction for the field to take from a critical perspective." *Id.* at 310.

32. *Id.* at 304.

33. If we can only infer that this shared identity extends (only) as far as the temporal fluidity they share, it is not a qualification Orford herself offers.

rather than as a tilt toward emancipation.[34] And, conversely, contextualism has often been used precisely to uncloak the vested power interests behind law's development and perpetuation.[35] The anxieties expressed here are made more explicable by struggles related to the legacies of empire that are unfolding *inside* the legal world. In one of her essays,[36] Orford recounted a 2010 speech by then World Bank President Robert Zoellick in which he declared the end of the so-called Third World.[37] The category and grouping had been superseded, he argued, in the future-facing pull of a "modernizing multilateralism."[38] Responsibility needed to be shared, and colonialism no longer featured in its calculation.[39] Within this climate, Orford's (and TWAIL's) imperative to stress that "legal concepts and practices that were developed in the age of formal empire may continue to shape international law in the post-colonial era" makes new (and important) sense.[40] The crucial issue of imperialism's culpability for contemporary global inequality is (felt to be) at stake.

But the wires of the threat, its causes, and its remedies have been crossed. In light of this more intra-law struggle with characters like Zoellick, in which critical legal scholars need to show that empire was not a passing aberration and did not—could not—simply "end," Orford had cast historians as the methodological foot soldiers of Zoellick's imperial amnesia. History-blind World Bank presidents and history-obsessed intellectual historians like Hunter morph into a common enemy, as both seem to be undermining or denying the structural continuities of empire into the present. Recall Koskenniemi's lament that contextualism suppressed "efforts to find patterns in history that might account for today's experiences of domination and injustice."[41] Progressive law (*pace* Orford and Koskenniemi) wants to forge and reside in a time that is neither Zoellick's nor Hunter's: it wants history to matter, to be alive, to be everywhere, but for it not to be very different from the present, as though those imperial continuities were a fragile commodity that might not withstand internal differentiation. Historians' habitual interest in specificity, in how historical figures reasoned, felt, and saw *differently*, thus triggers alarm bells; it

34. For just one influential articulation of the point, see JUDITH N. SHKLAR, LEGALISM: LAWS, MORALS, AND POLITICAL TRIALS (1964). *See also* Kate Purcell, *On the Uses and Advantages of Genealogy for International Law*, 33 LEIDEN J. INT'L LAW 13, 13–15 (2020) (advocating for a genealogical and historical method of studying the field of international as well as responding to recent criticisms about anachronism).

35. Among countless examples, we might briefly point to Samuel Moyn's excavation of human rights as a form of moral life adapted to neoliberalism, or indeed Koskenniemi's own analysis of international lawyers' investment in European empire. *See* SAMUEL MOYN, NOT ENOUGH: HUMAN RIGHTS IN AN UNEQUAL (2018) (examining human rights as a form of moral life adapted to neoliberalism); MARTTI KOSKENNIEMI, THE GENTLE CIVILIZER OF NATIONS: THE RISE AND FALL OF INTERNATIONAL LAW 1870–1960 (2001) [hereinafter KOSKENNIEMI, THE GENTLE CIVILIZER OF NATIONS] (analyzing international lawyer's investment in the European empire).

36. Orford, *The Past as Law or History*, supra note 21, at 3.

37. *Id.*

38. Robert B. Zoellick, President, World Bank Group, The End of the Third World?: Modernizing Multilateralism for a Multipolar World, (Apr. 14, 2010) (transcript available at http://hdl.handle.net/10986/29639).

39. Orford, *The Past as Law or History*, *supra* note 21, at 3–4.

40. *Id.*

41. Koskenniemi, *Vitoria and Us*, *supra* note 16, at 124.

seems to be taking the past further away—more stealthily than Zoellick, perhaps, but removing it from the present nonetheless—and corroding the cleaner lines that give it sharpest political utility.

If that captures some of the political/emotional economy of Orford and Koskenniemi's position, then the passions and suspicions aroused were unlikely to be quelled by historians' similarly fervent attempts to correct misunderstandings about the Cambridge School. In their responses, historians Andrew Fitzmaurice and Lauren Benton painstakingly laid out the way Cambridge School scholars, far from wanting to wall off the past, had been explicitly interested in how history could inform current politics.[42] Political engagement was not the target of the injunction against anachronism. "Skinner's concern," wrote Fitzmaurice, "is not with the use of the past to understand the present, whether through genealogy or contrast, but with the use of the present as the lens through which we understand the past."[43] But some critical lawyers want history to serve as a blunter (or sharper?) instrument than that—for it to be less mediated, for its message to be cleaner, for it to be gathered up into one time, our time. The relevant context is always a choice, Koskenniemi wrote, and "it is easy to see that postcolonial history has chosen as its preferred interpretive frame the centuries-long domination by Europe of much of the non-European world."[44] The affective and substantive blend so that history's (often) subtler mode of political engagement, its epistemological modesty, is experienced as political equivocation or hedging or worse—as though one's degree of political passion mapped directly onto the degree of continuity postulated, or as though unadulterated political commitment required an unadulterated time.

But if the concern is that we remember and analyze empire's role in today's radically unjust and unequal world, then we do not need the notion of anachronism or a 500-year "context" to achieve that. Those imperial legacies and reincarnations are palpably manifest in our world as matters of current fact. They could only be deemed "anachronistic"—temporally out of place—within a highly formalist legal frame that took the advent of formal, "postimperial" sovereignty as the end of empire, a frame that understood empire in *de jure* rather than *de facto* terms (as it seems Zoellick does).[45] History has less reason to be beholden to such formal/official markers than law, and it has long explored empire as a political, economic, social, cultural, institutional, and psychological phenomenon both before *and* after formal independence.[46] Especially if we take our cues from anti-imperial activists, thinkers,

42. *See* Fitzmaurice, *supra* note 27, at 13–14 (noting Cambridge School historians' use of history to understand present day debates); *see also* Lauren Benton, *Beyond Anachronism: Histories of International Law and Global Legal Politics,* 21 J. HIST. INT'L L. 7, 28 (2019).

43. Fitzmaurice, *supra* note 27, at 9.

44. Koskenniemi, *Vitoria and Us*, *supra* note 16, at 128.

45. Zoellick, *supra* note 38.

46. As Benton argued in her response to Orford, some of the debate's crossed wires result from the lawyers' presumption that the Cambridge School approach is the same thing as "historical method" more generally when, in fact, a sociolegal approach is far more prominent today. Rather than frame legal history as an intellectual history of canonical thinkers and formal documents and declarations, this approach—which can be traced back to E.P. Thompson and forward to Benton herself—turns from texts to actions and practices, interpreting food riots or rebellions (for example)

and worldmakers across the twentieth century and conceptualize modern empire not as alien rule but as a structure of (racialized) domination and unequal international integration, the persistence of those structures into the present is plain to see and, importantly, far from an "anachronism."[47] Given that this is precisely the project of so much wonderful new critical international legal scholarship, the reach for a theoretical conceptualization as "anachronism" is all the more puzzling.[48] Inquiring into its shifting modes, faces, and incarnations, in their historical specificity, need not *ipso facto* undermine the point.[49]

Stepping further back, it is worth being conscious and explicit about history's own relationship with time, which even in the most schematic terms is neither simple nor uncontested—not least around questions of contextualism and continuity. After all, from its modern inception, historicism has always had two distinct strands, each with a contrasting temporal thrust: a substantive historicism focused on history's grand plans, structures, and laws of development, sometimes called law and purpose historicism, in which meaning was clearly construed trans-temporally; and a so-called intellectual or methodological variant that stressed the distinctness of each epoch of human history and gave rise to contextualist interpretation.[50] If the former—associated with Hegel and other teleologies of reason and progress—acquired a bad name, those dual tendencies linger. It is not for nothing that Hunter has taken issue with the critiques of contextualism penned by intellectual historians Peter Gordon and Martin Jay, who he accused of being Hegelians.[51] (Is it any comfort to the lawyers that Hunter has accused other *historians* of being

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as important parts of the story of legal change. *See* Benton, *supra* note 42, at 17–22.

47. For more on this in the decades after World War Two, see ADOM GETACHEW, WORLDMAKING AFTER EMPIRE: THE RISE AND FALL OF SELF-DETERMINATION 1–5 (2019), and for more on the interwar years, see THE LEAGUE AGAINST IMPERIALISM: LIVES AND AFTERLIVES (Michele Louro et al. eds., 2020).

48. For an example of a brilliant recent analysis of international law's deep entanglement with capitalism, see NTINA TZOUVALA, CAPITALISM AS CIVILISATION: A HISTORY OF INTERNATIONAL LAW (2020).

49. For an example of how it might even strengthen it, see Carl Schmitt's discussion of America's new economic imperialism in Carl Schmitt, *Forms of Imperialism in Modern International Law* (Matthew Hannah trans., 1933), *in* SPATIALITY, SOVEREIGNTY, AND CARL SCHMITT: GEOGRAPHIES OF THE NOMOS 29 (Stephen Legg ed., 2011). *See also* KWAME NKRUMAH, NEO-COLONIALISM: THE LAST STAGE OF IMPERIALISM (1965).

50. If the two strands of historicism sometimes appeared as inimical opposites, Amos Funkenstein argued brilliantly for their common origin in the Jewish and Christian exegetic principle of accommodation, which held that scripture was always adjusted to humanity's capacity to receive it, thus mediating between the broader arc of providence and the particularism of different human eras. *See* AMOS FUNKENSTEIN, THEOLOGY AND THE SCIENTIFIC IMAGINATION FROM THE MIDDLE AGES TO THE SEVENTEENTH CENTURY 213–71 (1st ed. 1986); *see also* Samuel Moyn, *Amos Funkenstein and the Theological Origins of Historicism*, 64 J. HIST. OF IDEAS 639 (2003). For an argument that both genres of historicism are present in Hegel (rather than simply the "law and purpose" variety), see MICHAEL N. FORSTER, HEGEL'S IDEA OF A PHENOMENOLOGY OF SPIRIT (1998).

51. Ian Hunter, *The Contest over Context in Intellectual History*, 58 HIST. & THEORY 185, 187 (2019); *see also* Peter E. Gordon, *Contextualism and Criticism in the History of Ideas*, *in* RETHINKING MODERN EUROPEAN INTELLECTUAL HISTORY 32 (Darrin M. McMahon & Samuel Moyn eds., 2014).

transcendentalists too?) At its best, historical writing arrests and analyzes precisely the complex *melding* of long-run, structural processes and situated specificity. As William Sewell, Jr. described it in his landmark book *Logics of History*, historical events "always combine social processes with very different temporalities"—spanning the long-term and gradual, the sudden and the volatile, the medium-run, the oscillating—"which are brought together in specific ways, at specific places and times."[52] The lingering, mutating face of empire is one such (especially intricate) time-knot.[53]

52. WILLIAM H. SEWELL JR., LOGICS OF HISTORY: SOCIAL THEORY AND SOCIAL TRANSFORMATION 9 (2005). For Sewell's masterful articulation of historians' subtle "implicit theorization of social temporality—as fateful, contingent, complex, eventful, and heterogeneous . . . [a]nd its methodological corollaries—a concern with chronology, sequence, and contextualization," see *id.* at 11. For a proposal to think about multiple temporalities less as coexisting layers and more as a dynamic and interactive ecology, see POWER AND TIME: TEMPORALITIES IN CONFLICT AND THE MAKING OF HISTORY (Dan Edelstein et al. eds., 2020).

53. To put it somewhat differently, if, as Sewell has counseled, historians still have more to learn from the structural thinking of their colleagues in the social sciences, then the question for many becomes how to employ structures and simultaneously factor in the historicism, the situatedness, of the structures themselves. *See* SEWELL, *supra* note 52, at 5–6, 14–15, 81–151; *see also* Samuel Moyn, *Imaginary Intellectual History*, *in* RETHINKING MODERN EUROPEAN INTELLECTUAL HISTORY 112, 119–20 (Darrin M. McMahon et al. eds., 2014).