9

Between
International Law in *The City & The City* and *Embassytown*

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International law can be understood in a wide variety of ways. One useful binary can be borrowed from the title of a famous work by Martti Koskenniemi, *From Apology to Utopia* (2005). The term 'apology' refers to the era when international law formally emerged, roughly the late eighteenth and early nineteenth centuries. It embodies the idea that international law is a structure designed to reflect the interests and practices of states and, as a result, reinforces the power dynamics of the state system in which great powers can structure the international system in ways they see fit (Goldsmith and ~~Posner~~, 2005). Utopia, on the other hand, reflects the ideas of liberal international lawyers and actors in the early twentieth century who saw in international law the potential to resolve conflict and create a more peaceful international order. This utopian tradition continues to this

day in the way that human rights and international humanitarian law seek to create more a more peaceful and just international order (Casesse, 2012; Teitel, 2011).

These traditions of international law reflect different normative visions; the first reinforcing the value of order governed by powerful states and the second reflecting the ideal of justice found in demands for equal representation in the global political community. Both reflect an underlying normative idea of peace, of a sort, in that they allow for war but seek to moderate and structure it according to rules. It is somewhere between these two idea types, however, that most international law functions. For instance, 'apology' exists in the current international order as a presumption in favour of the great powers or power structures, perhaps most clearly reflected in the United Nations Security Council (UNSC) but also in weighted voting in the European Union (EU) and in a variety of other international structures. The International Court of Justice, the only international 'supreme court' allows states as parties and tends to reinforce the privileges of states and their representatives over the concerns of other actors in the international order, such as individual persons or NGOs.

At the same time, there is a strong utopian element in international law and its practices. Since the end of World War II and decolonization movements around the world, previously colonial subjects were able to move toward self-determination and increase their power. At the level of individuals, the appearance of the International Criminal Court in 2002 provides a context in which individuals whose rights have been violated can find an institutional framework through which they can seek to have their rights protected.[1] And, increasing NGO activity surrounding issues of human rights and other progressive causes has made an impact on broader international legal and political practices.

Between apology and utopia, then, is where international law resides. What happens in this space between these normative visions? How does international law actually work? What purpose does it serve in the current international order? In this chapter, I explore this space between apology and utopia. I do so not in the traditional manner, however, but through fiction, specifically the fiction of China

Miéville. Miéville is an obvious choice for such a venture in that he is a scholar of international law as well as an accomplished novelist. In fact, his scholarly monograph on international law (2005) draws on Karl Marx's famous phrase about law, 'between equal rights, force decides' (Marx, 1867/1978: 364). Miéville's work on international law develops a Marxist critique of the legal form, drawing on the Soviet era international legal theorist, Evgeny B. Pashukanis (1929). Rather than this more technical work, however, this chapter will use two of Miéville's novels to explore the role of international law: *The City & The City* (2009) and *Embassytown* (2011). The novels provide a window into the two poles of international law identified above, although neither reflects a single normative vision in the way I have described them. Instead, the novels reveal how the two normative visions can be perverted and result in more violence and greater injustice rather than peace and equality in the global realm.

In *The City & The City*, the law allows two communities to relate to each other through protocols and rules that do not arise from a legislature but from practices and customs that have emerged through time – in the same way that international law has emerged through custom and the practice of states. As with international law, the resilience of the law in this novel allows the story to 'work', as the narrator on the final page notes that he wishes 'to maintain the skin that holds the law in place' (*CC*, 373). *Embassytown*, in contrast, also relies upon legal codes and protocols, but ones that have arisen from an imperial context. This context relies on knowledge and language, which when overturned, leads to the breakdown of the law and revolutionary violence. This novel demonstrates the fragility of international law precisely because it is constituted by this imperial context. The chapter uses Miéville's novels to explore the role of law in these 'between' spaces and probes the tensions to which international law is subject in the current international order. Specifically, it argues that law in *The City & The City* is what international law ought to do in international affairs, but *Embassytown* reflects how international law cannot escape its imperial past, a past which exposes its fragility in the modern world.

The purpose of this chapter is to use Miéville's oeuvre to uncover something about international law. Rather than simply impose an interpretative framework of Marxism or Marxist legal theory onto his fiction, I instead seek to put his international legal theory and fiction into conversation with each other. In so doing, I argue that his theoretical argument can be supplemented from the narratives of how law 'works' in the two novels. The point is not to 'trap' Miéville in a contradiction between his fiction and non-fiction writing; rather, it is to find in the fictional material a critical perspective on his international legal theory. It is precisely the fecundity in both his fiction and non-fiction that allows this kind of analysis.

In order to undertake this project, the chapter begins with a brief overview of Miéville's legal theory, which also puts into context his ideas about Marxism and international law. The following two sections explore the two novels under consideration, making links to his theoretical framework. The conclusion seeks to draw together the novels in order to think about the space 'between' apology and utopia, and create a critical dialogue with his non-fiction writing on international legal theory.

International Law from the Left

Miéville's work on international law derives from his theoretical engagement with the Soviet era legal theorist Evgeny Pashukanis. Pashukanis' most well-known book is *Law and Marxism: A General Theory* (1929) in which he argues that the very form of law can only be understood as a form of commodity exchange between subjects. Instead of the law being a species of norms (Kelsen, 1946) or rules (Hart, 1994), Pashukanis argues that law is a particular form of social relations, one in which legal subjects only come into existence as a result of their need to regulate their use of commodities. The legal form can be reduced to a contract, one in which conflicting private interests are somehow regulated:

> The legal subject is thus an abstract owner of commodities raised to the heavens. His will in the legal sense has its real basis in the desire

> to alienate through acquisition and to profit through alienating. For this desire to be fulfilled, it is absolutely essential that the wishes of commodity owners meet each other halfway. This relationship is expressed in legal terms as a contract or an agreement concluded between autonomous wills. Hence, the contract is a concept central to law. To put it in a more high-flown way: the contract is an integral part of the idea of law. (Pashukanis, 1929/1978: 121)

Because his focus is on the form of the law, and the way in which the law mirrors the capitalist process of commodification of all it touches, Pashukanis did not subscribe to the dominant Soviet legal theory which saw law solely as a tool of the bourgeois state, one that could be altered when the proletariat took over the state. Instead, Pashukanis believed that not only the state would wither away but the legal form as well (Pashukanis, 1929/1978: 63).

Pashukanis was a legal theorist not an international legal theorist. He did write a few pieces on international law, though, one of which Miéville reproduces as an appendix in his own work on international law. In that article, a contribution to a Soviet encyclopaedia of law, Pashukanis extends his account of the legal form by exploring how relations between states at the international level mirror the relations between individuals at the domestic level. To make this point, he targets one of the 'fathers' of international law, the seventeenth-century Dutch theorist Hugo Grotius: '[Grotius'] whole system depends on the fact that he considers relations between states to be relations between owners of private property; he declares that the necessary conditions for the execution of exchange, i.e., equivalent exchange between private owners, are the conditions of legal interactions of states' (Pashukanis, 1927/2006: 329). This results in an international legal theory which, like his general legal theory, reduces law to the contractual relations among legal subjects – here states – in which social disagreements about commodity exchange are regulated.

Miéville provides one of the most thorough and sustained uses of Pashukanis' work to provide a wide ranging critique of international law, one that ends with the provocative sentence: 'The chaotic and bloody world around us is the rule of law' (Miéville, 2006: 319). Miéville sets out his understanding of international law in relation to

the Critical Legal Studies (CLS) movement, an effort by a range of scholars from different theoretical traditions who have sought to challenge the dominant positivist and, for most of these critics, imperialist idea of international law. Miéville describes himself as a fellow traveller with these movements, though he astutely notes that 'The coagulation of these [strands of CLS] into an often rather nebulous "critical theory" can obscure the real philosophical differences between various of these strands, and lead to a sometimes internally contradictory body of thought' (Miéville, 2008: 93). Instead, Miéville draws directly on the theoretical framing of Pashukanis and, in so doing, provides a more precise and more thorough going critique of international law. Rather than rely just on Pashukanis limited writings on international law, Miéville explores in more detail the nature of the international order as an instance of the kind of contractual based relations that the former finds in domestic social life.

Miéville locates Pashukanis in the 'capital logic' theory of Marxism which stresses that the state itself results from the ~~(?)~~ nature of commodity relations under capitalism. While Pashukanis is writing about law, the centrality of the sovereign state for both domestic and international legal theory reinforces his relevance for international law; just as the individual person comes into existence as a legal subject as a result of his contractual relations with other subjects in the pursuit of commodity exchanges, so too does the sovereign state as an international legal subject only come into existence as a result of its ~~of~~ interactions with other states in pursuit of its form of commodity exchange.

While indebted to the Marxist theorist for setting out his framework, Miéville diverges from Pashukanis on a central point. Pashukanis argued that while coercion exists, it is inimical to the commodity exchange that creates the contracts from which law derives. Miéville disagrees:

> I have argued that contrary to some of Pashukanis's claims ~~(?),~~ disputation and contestation is intrinsic to the commodity, in the fact that its private ownership implies the exclusion of others. Similarly, violence – coercion – is at the heart of the commodity form, and thus

> the contract. For a contract to be 'mine-not-yours' – which is, after all, central to the fact that it is a commodity to be exchanged – some forceful capabilities are implied. (Miéville, 2006: 126)

Miéville continues with this crucial addition to Pashukanis' thought and links it directly to the international legal form. Unlike in the domestic context where the state removes the actual use of violence (though it may remain in the background), in international law and international relations violence and coercion become the central way in which the contract and commodity exchange are enacted.

This conclusion stands counter to the narratives of international law which posits it as a means to create more peaceful interactions among states. Indeed, the origins of positivist international law in the late 19th century were part of an effort to replace the rule of force with the rule of law. But Miéville's reading of international law undermines this narrative, proposing a form of law that is inherently violent. Even more importantly, Miéville argues that rather than searching for an authority structure by which a positivist theory can ensure that international law is 'real law', this conclusion links domestic and international law, but in a way that most legal theorists would resist; i.e. both forms of law are contractual in a way that requires coercion and violence to make them work. Miéville connects this conclusion to the imperial origins of international law, a genealogical link made by other theorists but not through the Marxist theory of form used here (Angie, 2005; Grovogui, 1996). Miéville explores how imperialism grew up alongside of international legal developments concerning the freedom of the seas and religious conflict. In so doing, he does not excoriate international law as a tool of capitalists, as simplistic Marxism might do; rather, he finds in the origins of international law violence and coercion operating in ways that instantiate the legal form.

Miéville ends his account of international law with his attack on the rule of law. Rather than a panacea to resolve violence and war in the international system, an international rule of law can only reinforce violence and conflict. One example of this is the way in which the US used legal arguments and justifications to launch its war on Iraq in 2003, a war many public international lawyers strongly critiqued.

But the reliance on Security Council resolutions and discourses of enforcement only reified international law as ~~a war was undertaken~~ to ensure the position of the United States as the global hegemon (Lang, 2006).

~~The~~ path to this critical position on international law travels through dense thickets of Marxist theory. Miéville's theorization, however, cuts through those thickets and clarifies some difficult concepts. He also makes clear that international law is not the answer that many liberal theorists believe it to be. Instead, its imbrication with capitalist modes of production and contractual relations of property owners, whether they are people or states, produces the very violence that its publicists believe it can eliminate. We are left in a state of nihilistic abandon, a political system without justice, order or even peace.

Can we make life work without the legal form, either domestically or internationally? This question is not one Miéville answers or even poses in his theoretical work on international law, nor need he necessarily answer ~~this question~~. But I do not think we need to end our investigations there. Instead, in the following sections, I turn to his fiction to find out whether or not international law can be made to work, even if imperfectly. For in his imaginative spaces, spaces that are in my reading inherently international, Miéville provides visions of law that both correspond to and at points diverge from the pessimistic conclusions found in his theoretical work on international law.

Law, Violence and Enforcement: Thinking in and Through Breach

The City & The City is a detective story set in the context of two cities which coexist in the same geographical space but are politically divided. The main character is a detective trying to solve the murder of a PhD student in archaeology who is exploring the origins of the two cities. Her research unsettles the delicate politics of the two cities, which are held together through a series of complicated cultural, political and legal structures. The detective ends up working with another detective from the opposite city, during which they have to ne-

gotiate a range of issues, such as jurisdiction and evidence gathering. The murdered student is from the United States and is doing research at a branch campus of a Canadian university, both of which allow the story to include observations by characters from outside the context of the two cities.

As with any good speculative fiction story, one of the most interesting elements of it is the setting. In this case, the setting of the two cities is the core of the story. The relationship between the two cities – Beszél and Ul Qoma – is a complex one. They exist in one physical space, but residents of each city learn to 'unsee' residents, buildings and even streets of the other city. For those native to the two cities, this process is something they learn from childhood, while visitors must go through a thorough training regime to learn how to unsee those not in their cities. Streets and even a few buildings are 'cross-hatched', meaning they exist for residents of both cities, but they cannot 'see' each other. This idea takes to an extreme the complexities of real cities, with Jerusalem and Sarajevo (prior to the Balkan wars) being obvious examples. In Jerusalem, for instance, Palestinians and Israelis live side by side and often do not interact with each other even though they might be living on the same street. More interestingly, perhaps, is how similar relationships exist in more 'developed' cities such as London, Los Angeles or Paris, where wealth and poverty sit next to each other and a simple bus ride across town results in a graphic change in sociopolitical context.

More important than the physical setting, however, is the way in which the relationship between the residents of the two cities functions. The ability to unsee each other results, it would seem, from a set of cultural and pragmatic rules. These rules are not codified in any one place but rather depend on habit and training. Yet, despite this informality, there also exists a form of enforcement that is rather extreme. When a resident from one side or the other purposefully or even accidentally 'sees' someone from the other city, Breach steps in. Breach is an organization that is formally run by the Oversight Committee, a group of citizens from both cities that monitor the relationship between the two. Breach is a kind of police, although both cities have their own police departments. Instead of a formal police, Breach

materializes only in situations when a violation of the rules keeping the two cities apart takes place. Throughout most of the novel, Breach does not seem even human, but when the main character is taken by Breach, he learns that they are indeed humans with a special ability to meld into the two cities and cross the boundaries between them. It is unclear what happens to those taken by Breach, although the reaction to a violation of the rules is swift and certain. Fear of Breach is inherent in the protocols that exist to keep the two cities in place.

This brief overview provides some parallels in the international legal order. First is the question of sources of law. Traditional international law arises from two main sources: treaties between, and among, states; and, customary law that arises from a range of sources, some of which stretch back quite far into history (d'Aspermont, 2011). Treaties and agreements reflect the interests of states, often times powerful states, who are able to set the agenda of the international order. Customary international law sometimes reinforces these treaties and sometimes challenges traditional international law by providing support for changes such as the development of stronger human rights regimes or international criminal law. What is absent in international law, however, is any kind of formal law making body, such as a parliament, that can pass law on the basis of representative government. Certain organs of the UN system have a representative nature (the General Assembly, for instance), but the resolutions that come out of this body do not have the force of law. There is some debate as to whether or not the UN Security Council is 'legislating', which would go beyond its original mandate to be an executive organ designed to enforce international peace and security as described in Article 24 of the UN Charter (Alvarez, 2005). Here, the problem is not so much its inability to pass binding legislation (which it does) but its lack of representative character.

In *The City & The City*, the nature of the law governing the two cities has a similar character. First, the only formal governing body is the Oversight Committee, which includes individuals from both cities. It governs rather than legislates, constructing rules that it sees fit to keep the peace between the two cities in a secretive and often informal way. In fact, politicians are hardly part of the story; the only politician who

actually appears in the story is at the conclusion, and he comes across as a venal and self-interested actor, one in collusion with business interests. But a law of sorts certainly exists, and it is one that arises, from two different sources: daily practices and history. Their ability to make the law work does not rely on legislators but on the cultural norms that seem to have arisen over the years.

As with international law, there is no need for a formal legislative body but only the need for the individuals in the two communities to follow the rules as they have developed over time. Toward the conclusion of the book, a member of Breach describes to the narrator how the law works:

> Nowhere else works like the cities .... It's not just us [Breach] keeping them apart. It's everyone in Beszel and everyone in Ul Qoma. Every minute, every day. We're only the last ditch: it's everyone in the cities who does most of the work. It works because you don't blink. That's why unseeing and unsensing are so vital. No one can admit it doesn't work. So if you don't admit it, it does. (*CC*, 370)

History is also central to the function of law in the two cities. In his investigation, the narrator discovers that the murdered girl had begun to explore an alternative historical narrative, one that suggests a past in which the two cities were not divided (*CC*, 140–1). This re-emphasizes that the law does not depend on some conception of representation for its legitimacy, and indeed often seems to be outside of the bounds of representative government. Rather, its status is based on a combination of history and necessity. The murdered woman challenges the narrative structure upon which the law's authority rests, and so cannot be allowed to live. So, while the law functions, we can see its fragility when its history is exposed. The woman and her supervisor might be read as representatives of a kind of postcolonial critique of international law, which has included genealogical efforts to mine international law for its failure to account for the fictive way in which it constructs a liberal vision of itself while relying on hidden and unspoken assumptions about the developing/third/uncivilized world (Anghie, 2005; Grovogui, 1996; Keene, 2002; van Ittersum, 2005).

It is not simply out of good will that the people in both communities follow the rules, however. Breach represents a background of enforcement that ensures compliance. The existence of Breach provides precisely that element of the law that is missing from international law. What makes Breach so interesting is that it takes to the extreme the notion of enforcement. International law has long been criticized for its lack of enforcement for those who break the law; indeed, some go so far as to say this means it is not real law at all. Others have made the case that there are forms of enforcement in the international order, ones that do not necessarily rely on a domestic legal analogy (Lang, 2008; O'Connell, 2008). Despite these efforts, however, enforcement remains a central problem in international legal theory. At one level, Breach solves the problem of enforcement. By making enforcement automatic, the law can be upheld even when the cultural norms that undergird it fail. We can see Breach, therefore, as the international lawyer's fantasy as a means to solve the bedevilling problem of enforcement.

At the same time, Breach reflects the reality of international legal enforcement as well. First, Breach does not function like a domestic police force as demonstrated by the fact that it does not involve itself in a case of murder that seems to have included individuals from both cities. Rather, Breach only appears when a border has been violated. In the same way, international law does not concern itself with killing. In fact, the laws of war are precisely that, laws of war. They enable war in the traditional formulation, and only seek to moderate its excesses. What international law, in this traditional sense, concerns itself with is the violation of borders, such as illegal immigrants or military interventions. That is, international law allows individuals to kill each other as long as they do so in their own polities or in the context of an official war. As the narrator of the novel states: 'No breach had occurred though a woman had been killed brazenly, across a border' (*CC*, 282).

Second, Breach's enforcement methods stand above any other law, in the same way that international law sometimes does. When the main character is taken by Breach, he is taken to what seems very much like a Guantanamo type location, where he is interrogated

along with others. It is a 'no place', somewhere without any sense of time or space. He hears torture taking place, although he finds it to be a strangely bureaucratic location as well. There is no 'law' in this space, only efforts to extract information:

> The woman straddled my back and held me in some necklock. 'Borlu, you are in Breach. This is the room where you trial is taking place,' the older man said. 'This can be where it's finished. You're beyond law now; this is where the decision lives, and we are it. (*CC,* 295)

The formalities of a legal trial are not part of Breach, in the same way that they are not part of the interrogations that have been undertaken in the war on terror. One response here might be that such interrogations are a violation of international law. But, a great power seeking to combat terrorism by arresting and detaining individuals without any formal legal status corresponds in some ways to more traditional conceptions of international law, ones in which powerful states use the law to promote their own agendas.

The City & The City provides one insight into the functioning of international law. My claim here is not that Miéville intended this as a portrayal of international law, only that law appears in a guise that maps onto traditional international law in some interesting ways. It is also, importantly, a story about how law 'works'. In the conclusion, the narrator moves from being a police detective in one city to a member of Breach. He describes his new role in the following: 'My task had changed; not to uphold the law or another law, but to maintain the skin that keeps law in place. Two laws in place, in fact' (*CC,* 373). The law here is an international one, that structure of law that keeps the other (domestic) laws functioning. It is the global legal and political system, kept in place by powerful economic and political interests that let most of us get on with our normal, law governed lives.

The Breakdown of the Law: Imperialism and Revolution

But international law does not always work. Those moments when it does not work often reveal its fragility, that structure of law that is only

a "skin" rather than a substantive structure. Miéville's novel, *Embassytown*, reveals how thin that skin really is and what happens when pressures build up and break through it. *Embassytown* is set in a future world, one in which humanity now engages with beings from a wide variety of planets. The story is set on the planet Arieka, colonized by humans from the country of Bremen on the planet Terre. The inhabitants of the world are called Hosts, their distinctive feature being their unique understanding and use of language. Rather than language – or 'Language' as it is called to differentiate it from normal language – serving a representative function, this mode of expression is instead a concrete expression of reality. That is, nothing can be said that is not true and everything said must reflect that reality. As ~~Avice~~ explains:

> Their language is organized noise, like all of ours are, but for them each word is a funnel. Where to us each word *means* something, to the Hosts, each is an opening. A door through which the thought of that referent, the thought itself that reached for that word, can be seen. (*E*, 62, emphasis in original)

Moreover, Language is always spoken in a dual voice, one that the Hosts can employ because they have two mouths. Humans, however, are unable to speak Language as individuals for they need two mouths to speak the unique contrapuntal Language of the Hosts. Instead, they must have two people who are psychically linked in order to speak Language. These linked individuals, who are bred and raised separately from others, are called Ambassadors and are the only ones who can speak to the Hosts in a meaningful way. Even their names represent their unique relationship; they are referred to as a single person, but with a combined name, such as EzRa or HenRy.

The main character of the novel is a young woman, an astronaut of sorts, who travels on the 'Immer', an interdimensional pathway. She was raised on Arieka and, as a young girl, served as a metaphor by acting out a scene that allowed the Hosts to speak of doing something that they would not want to do otherwise – she became the 'girl who was hurt and ate what was given to her'. The narrator is not an Ambassador but is friendly with them and, as a result of her time off the planet travelling in the Immer and the fact that her husband is a

professional academic linguist, can reflect upon Language and understand its complexities. She also learns of the existence of others who have served as metaphors for the Hosts, and who have regular meetings that eventually serve as a source for revolutionary activity.

The human colonizers of Arieka benefit from the Hosts' ability to create biological machines, 'biorigged' materials that both grow and provide transport and housing materials. These materials are farmed by the Hosts and then bartered with the human colonizers (what the Hosts receive in return is not quite clear). There are other alien species scattered throughout the planet, but the primary interactions are between the Hosts and humans. Relations between the two communities rely heavily on the highly-trained Ambassadors, whose ability to communicate with the Hosts makes possible the colonial relationship. The Ambassadors work with bureaucratic staff members, one of whom serves a kind of colonial governor. There are multiple Ambassadors with all of them having similar levels of authority in relation to the Hosts and their human community.

The plot relies on the appearance of a new pair of Ambassadors who have not been genetically bred in the way of the others. Instead, one of them, Ez, has a natural empathy that allows him to link with any other person rather than directly to a fellow Ambassador as is the norm. '[Ez] had a certainly facility, a predisposition for mental connection unachievable by most of us: but it was generalized, not directed' (*E*, 268). When he and his companion first speak to the Hosts, the Hosts are suddenly addicted to their speech patterns, a process that turns the Hosts into mindless drug addicts, addicted to the Language of EzRa (the paired Ambassadors). When this happens, the entire Host community suddenly begins losing its ability to function in normal ways. They demand to hear EzRa and refuse to listen to any other Ambassadors. At first, this development is empowering for the human community, for they realize that they can control the Hosts through the Language of EzRa. But, the Hosts' addiction to EzRa soon becomes a problem as the community's social and political norms begin breaking down. Eventually, the Hosts turn to violence as they seek a way to ensure continued access to EzRa, violence that links up with their efforts to learn how to lie. This process, which

had been more of a public game in which the Ambassadors had participated, soon becomes part of a revolutionary situation. Some of the Hosts try to lie on a regular basis, something they do in the public competitions (called 'Festivals of Lies') and also in private meetings, which sometimes include human similes whom they have used to enable them to expand beyond their limited Language. When Ez kills Ra, the revolution breaks out in full force as the Ariekei can no longer fulfil their addiction.

The political and legal issues reveal themselves in the context of the Ariekei revolution, a result of both the existence of EzRa and the Hosts' efforts at lying. *Embassytown* does not have law at its fore as does *The City & The City*, but rather explores more of the relationship between politics and language. But, as recent scholars have argued, both language and politics are central to any legal system (Onuf, 1989, 2008). Perhaps more importantly, a revolution is a crucial moment for law. It is the moment when the old law breaks down but also when a new law must be created. Consider, for instance, the recent revolutions in the Middle East. In Tunisia, Egypt and Libya, efforts to create constitutions to replace the previous legal structures point to the intersection of law, politics, and revolution. Following these constitutional struggles demonstrates how creating new laws from revolutionary moments is a complex and highly politicized process (Lang, 2013).

The idea of the Hosts' Language has some interesting relations to legal theory. Law creates a general rule that applies to multiple situations. It must, of necessity be generalizable. Law requires a language that has referents. One could argue, then, that the Hosts could not have law because they cannot use language in the way that means something more general; their language expresses not general thoughts, and not even generalized meanings. If they cannot speak in general terms, in meanings that apply to more than one context, they could not have law. Instead, they would need a decision for each situation they faced rather than a rule that applies across a number of situations. While this is not part of the revolutionary process on Arieka, it does suggest that Miéville is positing a world in which law is absent. This is, at one level, a highly utopian world (or, of course, a dysto-

pian world). It is utopian/dystopian because it is a world where there seems to be no need for law, no need for the regulation of conflicting interests through the creation of contractual relations (to bring us back to Pashukanis's and Miéville's legal theory). Rather, it is a world in which each agent somehow lives in and speaks of the now of the particular moment. There is no need, it would seem, for promising and contracting about the future. If there is no need for such commisive speech acts – speech acts which proclaim our intentions to do something in the future that will construct the world in a particular way, which is what law does – then there is no need or place for law (Onuf, 2008).

It is difficult for us to imagine a world without law, for this would be a world in which there were no rules and each decision resulted from the interest and power of those who make it. The life of the Ariekei Hosts without law takes the utopian vision of international law to an extreme. Avice notes that there was some violence that took place before the arrival of the colonists, but it was limited to small scale disputes, 'obscure internecine murders and feuds' (*E*, 131). Instead, it is the arrival of a colonizer – with its cultural, political and legal structures – that leads to violence. The creation of order, an imperial order, which the bureaucrat Wyatt represents in the narrative, requires violence, or ~~(?)~~ the threat of violence. The bureaucrats who work for Wyatt 'must be armed … The hidden silos were rumoured to contain firepower of a different magnitude from our own paltry guns. There for our benefit, of course, the claim was' (*E*, 131). The violence contained in the silos represents the violence Miéville describes in his legal theory, the violence necessary to keep contracts and laws in place. It is not the mysterious enforcement mechanism of Breach in *The City & The City*, but a more overt, though still hidden, violence. In the same way, the colonizer patrols the market with guns openly displayed in order to remind the colonized who remains in charge. In more civilized, domestic legal orders, the guns need not be displayed so openly, though they remain there, always ready to be used if necessary.

There is an alternative view of a world without law, one that perhaps corresponds in a different way to international law. One of

the most famous articulations of this possibility comes from the legal theorist Carl Schmitt. Schmitt argued that law is really nothing other than decisions of the powerful, modelling his conception on a nominalist theological one in which God makes all decisions and we simply live under the fiction of an orderly legal system (Schmitt, 1922/2005, 1929/2007). Schmitt developed these ideas in the midst of the Weimar Republic in interwar Germany, where a utopian constitution failed to stop the rise of the Nazis. Schmitt associated himself with the Nazis, making many suspicious of his views. Moreover, one might argue that this account mirrors certain great power approaches to international law, wherein there is no set of generalizable rules but instead a realm in which powerful states can choose to follow the law or simply ignore it if they wish.[2] Returning to the sources of law noted above, the treaty-based nature of law means that law is only something that powerful states create by entering into treaties with each other. In so doing, they can decide not to obey the law when it suits their interests. A famous recent example of this attitude was the decision by the United States to ignore ~~a ruling of~~ the International Court of Justice when it ruled that the US mining of the harbours in Nicaragua in the late 1970s and early 1980s was illegal.[3] By refusing to comply with such rulings, and suffering no consequence, we are left with a decision that ignores the need for generalizable claims.

Embassytown does not present such a picture of law, although one can see how it might result in a situation where it is impossible to generalize in language. If every act was the result of a decision that could not be expressed in any other way than a simple decision, one can see how a powerful actor might appear and control the situation. Indeed, the ability of EzRa, and through them the colonizers, to use the drug of his voice to control the Ariekei might have a loose correspondence to the Schmittian ideal as suggested here. Because each speech act from EzRa creates a new reality, the colonizers need merely parade them in public to create new realities. What soon becomes evident, however, is how reliant this makes the colonizers on the lives of these two Ambassadors. The narrator becomes enmeshed in stratagems to keep EzRa alive and functioning, and when this fails, chaos breaks out. In other words, the Schmittian decisionist system can create im-

mense power, but that power rests on a very slim foundation, the life of two persons.

Language, and particularly deception through language, is also directly linked to diplomacy, a practice that sits at the heart of international law. Henry Wotten, a seventeeth-century English diplomat, famously stated that '[a]n ambassador is an honest gentleman sent to lie abroad for the good of his country.'[4] This saying captures one aspect of diplomatic practice: the ability to use language to advance the interests of a state. In so doing, diplomacy has been long understood as preferable to war and violence. In *Embassytown*, the Ambassadorial ranks are trained to speak in the same way the Hosts are – without lying. As such, Miéville turns on its head the idea that an Ambassador is trained to lie. And yet, the novel also reveals that Ambassadors are to 'speak for' their host state as they 'governed formally in Breman's name' (*E*, 51) The Ambassadors in the novel are slightly different from this role, in that there is not a single Ambassador but many. For this reason, they do not correspond exactly with the idea of traditional diplomacy (understood as a single representative who should speak in the name of his or her country and who acts in the name of that country rather than in the interests of the ~~hosting~~ state), although at one point we are reminded – by the chief bureaucrat, Wyatt – that the Ambassadors are speaking for Bremen and can be replaced at the will of the powerful (*E*, 271).

One might say *Embassytown* is more concerned with politics than with law. As the revolutionary feelings engendered by the emergence of EzRa increase, Avice discusses with the leading bureaucrat how cultural slips could lead to political upheaval. ~~In response, she~~ notes that:

> Protocols between us were very firm, and for generations, there'd been trouble in relations. So it felt absurd to imagine the Ariekei, the city, ever turning against Embassytown. But we were some thousands, and they were many, many times that, and they had weapons. (*E*, 131)

The idea that protocols and not laws kept relations in place is reflective of the quasi law that often governed colonial relations.[5] Rather than implement a fully-fledged legal order in a situation of dominance

like this, colonial administrators would rather rely on social norms that had been in existence for some time in the colony. Of course, those norms were often slightly, but crucially, altered by the occupying power so that they would ensure the powerful would remain in place. The clearest manifestation of this is how the drug of EzRa's voice becomes the tool to control the Hosts. The voice becomes the currency through which the humans can continue to buy the biorigging they need, but in so doing, they spread the addiction to it outside the city and into the countryside (*E*, 208–9). Like the Western powers' use of opium in nineteenth-century China, the voice becomes both a source of wealth and a means of controlling the population, one that had been part of their culture but which is now beyond their control. When revolutionary moments begin, however, those norms begin to break down. The novel explores an extreme case of this; when EzRa's powerful voice creates drug addicts among all the Hosts, social norms collapse almost completely: 'There was a dangerous excitement, an amoralism manifesting in small cruelties and mass indulgence, that some let take them, while others struggled to make things work' (*E*, 203).

The city of Embassytown can itself be considered a character in the novel, in part because of the 'biorigging' or living buildings and machinery that result from the half biological and half mechanical structures created by the Hosts. As the revolutionary process increases, the city itself changes; 'Embassytown was violently dying' (*E*, 216). The manifestation of the city as a living and dying entity, one directly linked to the revolutionary politics of the city, evokes the idea of biopolitics, as articulated by the French social theorist Michel Foucault (2004). Foucault explored the ways in which governments exert control over populations through the regulation of health and reproductive policies. These efforts stretch from seemingly innocuous efforts to compile statistics about birth and death rates to using disciplinary practices to alter public health practices. Miéville's construction of a 'living' cityscape, which forms part of the trade relationship with the colonizers, combines Foucault's ideas with his Marxist inspired critical perspective.

Foucault argues that it is possible to resist such forms of disciplinary power, though resistance is often futile. Others, though, have pointed to the ways in which emerging forms of city life both demonstrate the truth of biopolitics yet also reveal sites of potential resistance to it. For instance, in their most recent collaborative work, *Commonwealth* (2009), Michael Hardt and Antonio Negri argue that the harnessing of the 'multitude' is part of a biopolitical revolutionary response to global capitalism. The 'multitude' is an alternative description of the people, one that highlights their unorganized, radical and revolutionary potential to constitute new political orders. It is simultaneously a source of great power and great danger for political life. In this work, and their previous collaborations, Hardt and Negri (2000, 2006) theorize the multitude as a global phenomenon rather than a purely domestic one (as it often appeared in the history of political thought in Machiavelli and Hobbes, for instance). In making their argument, they point directly to emerging forms of city life that do not correspond to traditional 'urban planning' models but arise from complicated social, political and legal norms that have arisen in African cities. Noting that in Marxism the city was a body without organs, today a different city is emerging:

> Today, finally, the biopolitical city is emerging. With passage to the hegemony of biopolitical production, the space of economic production and the space of the city tend to overlap. There is no longer a factory wall that divides the one from the other, and 'externalities' are no longer external to the site of production that valorises them. Workers produce throughout the metropolis, in its every crack and crevice. In fact, production of the common is becoming nothing but the life of the city itself. (Hardt and Negri, 2009: 251)

The authors are careful not to glamorize these new city forms, but they do point to the potential for a new form of revolutionary politics, one in which what seem to be random protests and practices result in new forms of political life, what they call 'a global commonwealth'. This is not a commonwealth based on a formal constitution, but one that exists in the economic and social practices of groups and peoples fighting against economic exploitation. In the same way, the revolt

undertaken by those in Miéville's *Embassytown* is not a single, organized revolution in the traditional model. Its material power comes from the drug-addled hosts, who only want to hear the voice of EzRa. But it also comes from those Hosts who have been learning to lie over the past few years, some of whom resist the power of EzRa's voice. And, crucially, the revolution arises from the actions of some humans, such as the linguistic researcher Scile (Avice's husband), who wants to protect the linguistic innocence of the Hosts; '[Scile] wants to protect the Ariekei. From changing language' (*E*, 164). Through these uncoordinated actions and practices, a revolution arises that sweeps away the carefully constructed colonial legal order.

Embassytown, then, reveals the underside of the law, both international and domestic. Through its setting in the colonial context of Bremen's Ariekei outpost, the novel highlights how legal relations between the colonized and colonizer might seem, at one glance, to provide an order and economic relation of benefit to both. Yet in Miéville's exploration of language and its relation to the political context, the novel reveals a series of tensions that can easily snap when their fragility is exposed. Unlike *The City & The City*, where a kind of traditional international law 'works' and 'keeps the skin in place' (*CC*, 373), *Embassytown* explores the fragile nature of international legal relations and how quickly they can collapse.

Conclusion

It is interesting to note that in his work on international law, Miéville provides a full-scale critique of not only international law but law itself. In his critical use of Pashukanis, Miéville argues that it is the legal form which is intimately linked to violence. Widening his critical lens, Miéville argues that international law's form is linked to exploitation of various parts of the world, imbricating it with colonialism. Because of these overlaps, he argues that calls to use international law in a progressive sense will never succeed:

> To fundamentally change the dynamics of the system it would be necessary not to reform the institutions but to *eradicate the forms of law*

> – which means the fundamental reformulation of the political-economic system of which they are expressions. The project to achieve this is the best hope for global emancipation, and it would mean the end of law. (Miéville, 2006: 318)

In *Embassytown*, the Hosts are depicted as simple victims of colonialism. Perhaps it is the absence of a legal form, either domestic or international, in their lives that contributes to their innocence. Yet, at the same time, when law breaks down, chaos results. Certainly, some forms of chaos can be productive and liberating, as any revolutionary moment will reveal. Others, though, are not so liberating and result in a simple reinscription of the previous power relations or ones that are even worse. *The City & The City* suggests a model of how international law can 'work'. It is a system in which two communities relate to each other and, as represented by Breach, provides an architecture in which they can function. Clearly, there are flaws in this model, as can be seen in the lack of trials for those accused and the fact that violence can take place within those communities, as long as it does not violate the borders between them. But, perhaps this is all that international law can provide.

Notes

1 To be clear, the ICC does not allow individuals to simply present a case before it. Rather, it allows various agents to bring cases against states which can support the rights of individuals in the international order.

2 Schmitt did write an important account of international law, one that traces the historical emergence of the current international legal order as a response to the age of discovery which ended in the early 20th century. This does not reflect in a direct way his wider legal theory, but draws on different intellectual resources (see Schmitt, 2006). [**AQ: Schmitt, 2006 not in references, pls supply ref**]

3 See Case Concerning the Military Paramilitary Activities in and against Nicaragua (Nicaragua vs. the United States), 27 June 1986, available online at: http://www.icj-cij.org/docket/index.php?sum=367&p1=3&p2=3&case=70&p3=5.

4 See the Wikipedia entry for 'Henry Wotten': http://en.wikipedia.org/wiki/Henry_Wotton (consulted 28 August 2012).

5 For instance, law making in the British colonial context was made by means of 'legislative councils' that were composed of representatives from the centre along with business interests and some local interests. See Wight (1947/1952) and Lang (2013) for more on this institution and its relation to wider colonial aspects of the international legal order.

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