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Editorial

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It is perhaps not a surprise that the cardinal theme of this issue is the coronavirus pandemic (COVID-19) and its repercussions since its global spread in 2020. Formidable forces for continuity persist, however, and should not be underestimated. In this respect a roll call of some international anniversaries is a potent reminder.

2020 was the 75th anniversary of the United Nations and the launch of the Nuremberg Tribunal. These will be two significant leitmotifs throughout this volume. Both were milestones in international affairs. The UN is Ireland's primary reference point in international matters, and in 2020 the country secured a non-permanent seat on the Security Council. 2020 also marked the 60th anniversary of Ireland's decision to contribute to the UN mission to the Congo, which established its unparalleled commitment to UN peacekeeping. 2020 was the 50th anniversary of the operationalisation of the Non-Proliferation Treaty (NPT) and the field remains a key agenda item of the UN. Frank Aiken, former minister for external affairs, is rightly regarded globally as the progenitor of the NPT. He was responsible for spying the possibility for, and need for perseverance with, consensus building on matters of planetary importance even at the zenith of the antipathies during the Cold War. The NPT, like the UN, remains a force for stability in international affairs, but it requires constant nurturing if unresolved and developing problems are to be managed successfully.

The initial articles draw on the annual conference of the Standing Committee for International Affairs that occurred on 5 May 2021. That point, approximately 18 months after the outbreak of COVID-19, presented an opportunity to reflect critically on the pandemic's rolling implications for international affairs. Even before the pandemic, the world was in a period of worrisome flux. Populism and nationalism interacted with intensifying great power tensions to test multilateralism and the rules-based international order. Accumulating concerns about the condition of a global commons facing climate change, and escalating apprehensions about humanity's sustainability, were inextricable components of the zeitgeist.

This issue of *Irish Studies in International Affairs* begins with the address of Simon Coveney TD, who holds the dual portfolio of minister for foreign affairs and minister for defence. He opened the annual conference in May. His discourse aptly encapsulates the paradoxical effects of the pandemic as an accelerator of existing changes and a potential disrupter. He submits that international relations are at an inflection point. While some states display a lack of commitment to a values- and rules-based international society, Minister Coveney reiterates Ireland's commitment to a peaceful and human-centred global society based on equity, partnership and sustainability. His message is hopeful. It draws inspiration from an observation of Edna O'Brien: 'In a way, winter is the real spring, the time when the inner things happen.' Similarly to past periods of instability, the current one offers prospects to construct a world made better.

The immediately ensuing articles enumerate some of the manifold impacts of the contagion on the state of the world, and delineate the challenges and opportunities that lie ahead.

Federico Fabbrini is similarly cautiously hopeful to the minister. He contends that the European project remains resilient as it deals with the twin challenges of Brexit and COVID-19. He catalogues a number of centripetal forces that have counteracted the centrifugal pulls encountered by the EU. Fabbrini argues that the EU has performed better than its detractors claim. It agreed a substantial recovery budget (the Next Generation EU, NGEU) to surmount the twin crises. He makes the case for deepened federalisation to improve the efficiency of union decision-making, viewing the Conference on the Future of Europe as an opportunity, but he acknowledges its institutional deficiencies. Next, Larik and Ponzio's article takes as its starting point that 2020 was the 75th anniversary of the UN. Their message is one of 'cautious optimism' too and they note that the International Monetary Fund (IMF) has shown how international organisations can respond positively to surmount the worst effects of the crisis and mitigate its negative impacts. Based on this they propose a reform package for global governance. The explicit aim would be to tackle the pressing international challenges and enable a broad-based global recovery. Acknowledging that the world is both more connected and more fragmented, they insist that institutions and ideas matter. The present is the opportunity to 'build back better'.

Kenneth Sheehan specifies another multilateral diplomatic necessity—the need to enhance regulation of the 'wild west' of cyberspace. He explores the intensification in cooperative efforts to combat cyberattacks since the 2016 US presidential election. Sheehan underscores how the pandemic in 2020 redoubled efforts to negotiate regulatory frameworks for the virtual world. This was a necessary response to cyberattacks against critical services, including healthcare, in addition to the dissemination of online disinformation about the virus. For the first time, cyberspace is at the top of the international agenda as cooperation grows to combat digital malignancies.

Deirdre Halloran's study of the EU's procurement response to the pandemic is similarly upbeat. She reasons that contrary to criticisms of the EU's initially incoherent responses, the union responded reasonably within its limiting remit to the public health crisis. Halloran maintains that the EU made effective efforts to coordinate its member states to maximise vaccine procurement and rollout. There is, therefore, a strong case for the enhancement and perfection of the innovative EU response, the Joint Procurement Agreement for the Procurement of Medical Countermeasures (JPA), to cope with future cross-border public health crises. Halloran's judgement is that the pandemic underscored the need for more, not less, European-level cooperation on vaccines and health policy.

Niall Duggan and Marcin Grabowski next explore whether the external shock of the pandemic accelerated or substantively changed the power balance between the People's Republic of China and the United States of America. Generally, they infer that such perceptions are hyperbolic. Informed by the realist power transition theory of Organski and Kugler, the research shows that the pandemic may have assisted China's rise as a strategic competitor in comparative terms, but that is liable to overstatement. Duggan and Grabowski surmise that China's initial global repositioning in tackling the pandemic was created by a momentary lapse in US leadership. In retrospect the accelerated global shift was more apparent and temporary than real. They make an alternative case that a tangible power shift occurred at the regional level in South-East Asia, where COVID-19 cemented China's growing economic influence. Even this was a continuation of an existing pattern and is tempered by the apprehensions of most countries in the south-eastern neighbourhood who view the US as an important strategic and political pole.

John Harrington and David Ngira adopt a refreshing perspective correcting the developed world's self-absorption. They present an informative comparative assessment of the impacts of COVID-19 on Kenya, Uganda and Tanzania in East Africa. These three countries depend on the Global North to access medicines and health expertise, but were neglected in spite of Western, Chinese and Indian lip service. Harrington and Ngira convincingly reveal the heterogeneity of the African states and their diverse responses to the pandemic. They conclude that the East African states of their comparative case study possess both individual and collective agency, but they are not well served by the developed world.

In continuation of this negative assessment of the developed world, John Ryan is deeply critical of Boris Johnson's government's conduct of the COVID-19 public health crisis in the UK, an advanced Northern European country that possessed many advantages. He makes a case that this is paralleled by the government's hard Brexit trajectory and outlines how Northern Ireland was a casualty. Ryan contends that the Johnson government's populist Brexit approach in England has made a vote on unification on the island of Ireland more likely. He reproaches Johnson for agreeing to the Protocol on Northern Ireland to enable withdrawal from the EU, doubtless expecting that he would have need to revise it later. Ryan is convinced that short-term populism in relation to the twin challenges of Brexit and COVID-19 has damaged Britain's place in the world.

Continuing the critical perspective, Donna Lyons expresses legal disquiet about some developments during the COVID-19 era in her two linked articles. Her first contribution dissects the International Covenant on Civil and Political Rights (ICCPR) to clarify the derogations permissible in periods of emergency when the 'life of the nation' is threatened. Her second article delves into the five-yearly reviews of the UN Human Rights Council of each member's compliance with its international legal rights obligation. She unveils the database she created to compensate for some of the inadequacies she identifies in the dissemination of the Council's conclusions. Lyons also expresses reservations about Ireland's fulfilment of its ICCPR obligations in its response to the COVID-19 health crisis on proportionality, equality and obscurantist (conflation of health guidelines and legal obligations) grounds.

The international law theme continues in the succeeding three articles of this volume. These contributions emerge from the critically well-received and fertile multidisciplinary symposium 'The Nuremberg Trials at 75: histories, legacies, lessons' held at the Royal Irish Academy on 17 June 2021. Chaired by Judge Síofra O'Leary, President of Section V of the European Court of Human Rights, the discussion represented a collaborative venture between the Standing Committee for International Affairs and Historical Studies Committee of the RIA. It elucidated the historical, legacy, legal and political perspectives on the trials, which are viewed as the beginnings of modern human rights law. The Academy was honoured that Philippe Sands delivered the keynote address. His award-winning mix of memoir, history and human rights, *East West Street: On the Origins of Genocide and Crimes against Humanity*, illuminated and personalised the tragedies of the Holocaust from point of origin until the prosecutions at Nuremberg. The Nuremberg Trials were seminal for contemporary codes on war crimes, crimes against humanity and crimes against peace, but their origins and legacies are complex. The three papers presented in this volume on Nuremberg and its legacy are complementary in explaining how the complex and contested history of the trials has heavily informed international law.

To an extent, scepticism about the Nuremberg Trials' constitution and remit is supported by the findings of Francine Hirsch, who explores the neglected Soviet role. She draws attention to how the original conception of a special international tribunal was Soviet, and it predates the triumph of the 'Nuremberg myth' as a story of Western liberalism and justice over Nazi criminality. Hirsch recognises the limitations of the Stalinist conception of

the trials, but notes that Soviet evidence of the Holocaust was the clearest. Hirsch underlines how Cold War tensions weakened the tribunal. She also argues that any assessment of Nuremberg is forced to acknowledge it is a mixed bag of promise and failure that defies a simple narrative of justice delivered.

William Schabas delves deeply into contested features of the International Military Tribunal at Nuremberg. His account of Nuremberg's critics after 1946 reveals two diametrically opposed schools of thought. The first was exhibited by those (notably Raphaël Lemkin, a protagonist of Sands's *East West Street*) who concluded that the Nuremberg remit was unjustified in limiting the crimes against humanity to those linked to the preparations for, or the execution of, war. This barred the tribunal from prosecuting the peacetime crimes of Nazi Germany against its own citizens and minorities. Not until the signing of the Convention on the Prevention and Punishment of the Crime of Genocide in 1948 was 'peacetime genocide' by governments against their own peoples recognised. Schabas explains how a second school of thought viewed Nuremberg as illegitimate retroactive justice (*nullum crimen sine lege*). Scepticism was displayed by official West Germany and others until at least the 1970s. Such cynicism affected the framing of the European Convention on Human Rights (signed in 1950). The thinking was pervasive and resulted in the drafting of the International Covenant on Civil and Political Rights (signed in 1966) to prevent *ex post facto* justice, with the explicit exception of the end of the Second World War's International Military Tribunal (the so-called 'Nuremberg clause'). Schabas concludes that it was in the past quarter century that evaluations of Nuremberg turned overwhelmingly affirmative.

James Kingston delivers a practitioner's perspective based on Ireland's present-day commitment to holding states accountable for human rights violations and war crimes under customary international law and a properly constituted permanent court. He underlines that Ireland has unwaveringly favoured international organisations and justice, but notes that their failure to deliver in the interwar period impelled Ireland's retreat into neutrality during the Second World War. The contemporaneous assessment of the Nuremberg Tribunal by Michael Rynne, the legal adviser to the Department of External Affairs in 1945, is interrogated by Kingston. It conforms with Irish policy during the war not to cooperate with the Allies in the prosecution of Axis 'war criminals'. After gaining admission to the UN in 1955, Ireland was resolute in favour of the UN and a justly constituted international society. Kingston explains that Ireland supports the International Criminal Court as it is a permanent court unlike the improvised Nuremberg one, so it is regarded as the legitimate institution to hold states accountable.

While the multidisciplinary chronicle of Nuremberg's origins and legacy illuminates how one norm that defines our contemporary values-based international society has gained legal acceptance, it may be timely to cast a critical eye on other international norms. In this respect, Ross Barrett in his paper critiques the origins, development and utility of the contemporary norm against mercenarism. He suggests that it is counterproductive, even a conceit. He argues that pre-modern mercenaries performed similar duties to modern private military firms and security companies. Barrett contends that the Enlightenment and Westphalian projects incorrectly represented classical mercenarism for political ends. These modernist depictions did not match reality and depended on selective or partial reading of the sources. A more mature approach would be to acknowledge mercenarism's existence and regulate it accordingly, in Barrett's estimation.

The next paper explores another norm and its legal place today. Neutrality finds itself beleaguered in the post-Cold War dispensation. Perhaps it was ever so, but Pearce Clancy scrutinises the legal compatibility between permanent neutrality and membership of the UN Security Council. He excavates the legal argumentation of Austrian scholars who confronted the apparent contradictions between Austria's permanent neutrality during the Cold War and

its UN participation. Clancy explores to what extent this legal history can provide guidance on whether neutral rights can or cannot be overridden by mandatory sanctions imposed by the Security Council under Chapter VII of the Charter.

The final four papers concentrate on Ireland's place in international affairs. Thomas Mohr's historical essay is apposite in 2021, the centenary of the signing of the Anglo-Irish Treaty. He re-evaluates George Gavan Duffy, who is often cited as the Irish plenipotentiary who signed the Anglo-Irish Treaty with extreme hesitation and noted his emotional preference to reject it, but saw no rational alternative. This is a strong source-based article that expertly appraises Gavan Duffy in terms of his approach to foreign policy and his maximalist interpretation of the space for dominion autonomy. Gavan Duffy became the minister for external affairs in 1922, while choosing not to become part of the provisional government. He thus retained his independent voice before resigning in protest at the summary justice meted out by the government during the Civil War. His view was that Irish independence could be advanced by developing links with revisionist dominions and he anticipated the future course of the Irish Free State's successful foreign policy during the next decade.

Next Robert Collins applies his lens to the US-based 'Noraid' (Irish Northern Aid, or INA), which was a perennial subject of controversy in the Irish–American–British triangle from the early 1970s. Martin Galvin, the publicity director, played a central role in the INA's tours to Northern Ireland from 1983. The 'Belfast tours' originated after a wave of American-born activists joined the INA during and following the 1980–1 hunger strikes. The tours were conceived as an opportunity for Americans to gain familiarity with Northern Ireland. They stayed with nationalist families, engaged in walking tours and heard from Gerry Adams, who had been refused a visa to the US. Operating in defiance of undeviating criticism from Dublin, Washington and London, the tours garnered a certain notoriety in the mainstream media but boosted the INA's profile and fundraising from 1983 to 1985 before waning.

Patrick Walsh and Ciara Whelan identify a little-noted structural change in Irish Overseas Development Aid (ODA) since the financial crisis of 2008. They stress that not only did Ireland impose one of the biggest falls in ODA as a percentage of Gross National Income (GNI) of the OECD Development Assistance Committee countries, but its bilateral spend declined even more precipitously than its multilateral spend.

The volume fittingly ends with the annual review of Irish foreign policy by Kenneth McDonagh. This explores the seismic political changes that occurred with the general election of 8 February 2020 and discusses its foreign policy implications. If the outcome of future elections follows in a similar vein, the Dáil's political arithmetic may require the revision of Ireland's engagement with the EU's Permanent Structured Cooperation in Security and Defence (PESCO) and Common Security and Defence Policy. The 'Euro-critical' defence position of Sinn Féin, in particular, could become a serious complicating variable. Paralleling Halloran and Fabbrini's articles earlier in the volume, McDonagh presents the view that the EU has served Ireland well. Its response to the pandemic with a common procurement policy has outperformed what Ireland might have expected to achieve.

Notwithstanding the evident benefits of EU membership, Brexit complicates Ireland's relations with its EU partners. Brexit became a reality in 2020. Dublin's trial is to manage it and retain an amicable relationship with London, when their fundamental approaches and interests are often at variance. The instinctual Irish perspectival and policy differences with Boris Johnson's UK government have no easy solution. Ireland is required to walk a fine line on several matters within the EU such as Brexit, Northern Ireland and corporation tax. Other important themes that are traced in McDonagh's review of 2020 include Ireland's innate relief at the victory of the Democratic challenger to Donald Trump, although that does not mean that all will be plain sailing.

As always, *Irish Studies in International Affairs* remains open year round for submissions. The journal offers a forum for many disciplines on most international topics, and we especially welcome contributions relating to Irish interests in international affairs and Irish foreign policy in any era. The availability of the journal in print as well as digital ensures it reaches a global readership. In addition, as part of recent publishing agreements the Academy has signed with IReL and JISC, accepted articles by corresponding authors affiliated with participating institutions will be made open access immediately upon publication without any article-processing charge. This initiative marks an important step in realising the Academy's goal of transitioning its journals to open access and greatly enhances the accessibility and visibility of the work of authors. We are grateful to the current volume's contributors—authors as well as the anonymous peer reviewers—as it is their scholarship that makes the journal a success, and we look forward to reading your submissions for future volumes.