## **Table of contents**

preservation

<b>General introduction</b>	
Research problem(s), theoretical framework and outline	
Research problem(s): a discrepancy of discourses	р
Theoretical framework: a critical deconstruction informed by mnemohistory	p
Outline, method(s) and hypotheses	p
Part 1	
The Use of Force in Nineteenth Century Scholarship (More than a naturalist fantasy)	
Introduction to Part 1	p.
Preliminary considerations. Conceptual clarifications around the notion of 'use of force' in the nineteenth century	р.
i. 'Intervention': armed and unarmed measures of coercion	p.
ii. 'Coercive measures short of war': small-scale armed interventions?	p.
iii. 'War': large-scale armed interventions?	p.
Chapter 1. The use of force in writings of 'naturalist' inclination	р.
1.1. The 'naturalist' legal order: positive law as an emanation from natural law	p.
<b>1.2.</b> The 'naturalist' approach to custom: State practice under the marginal control of natural principles	p.
<b>1.3.</b> Non-intervention as a direct consequence of the principles of sovereignty and equality of States	p.
<b>1.4.</b> The exceptions resulting from State practice as confirmed by the principle of self-preservation	p.
Chapter 2. The use of force in the writings of 'eclectic' inclination	<b>p.</b>
<b>2.1.</b> The 'eclectic' legal order: the autonomy of positive law; the structuring, influential and supplementary role of natural law	p.
2.2. The 'eclectic' approach to custom: making the real match the ideal principle	p. :
2.3. The concordance of the 'real' rule and of the 'ideal' principle of non-intervention	p.
<b>2.4.</b> The exceptions resulting from State practice and legitimized by the principle of self-preservation	p.

Chapter 3. The use of force in the writings of 'positivist' inclination
<b>3.1.</b> The 'positivist' legal order: the rejection of natural law and the 'positivation' of natural premises
<b>3.2.</b> The 'positivist' approach to custom: an inductive methodology for an 'idealist' project
3.3. A 'discursive' approach to intervention and a 'factual' approach to war
<b>3.4.</b> The exceptions resulting from State practice or from the fundamental principles of international law
Conclusion to part 1. Some reflections on the differences between past and modern scholarship
Part 2
The Use of Force in Nineteenth Century State Practice (Law beyond morals and politics)
Introduction to Part 2
Chapter 4. Justifying the European intervention(s) in Greece (1821-1833)
<b>4.1.</b> The Russian ultimatum of July 1821: the threat of the use of force
4.1.1. The treaties of Kütchük Kaynarca (1774) and Bucharest (1812): establishing Russia's right to intercede in favour of the Christian subjects of the Porte
4.1.2. The creation of a 'semi-legal' 'semi-moral' duty of intervention for the European powers in favour of the Greeks
4.1.3. The Ottoman reaction: denying the violation of its obligations towards Russia and other European powers
4.1.4. The European powers' reaction: a politically inopportune and legally unjustified intervention
<b>4.2.</b> The Treaty of London (1827) and its implementation: naval blockade, the Battle of Navarino and the occupation of Morea
4.2.1. The Protocol of Saint-Petersburg and the Treaty of London: humanitarian considerations, self-preservation and the Greek invitation
4.2.2. Third States' reactions to the Protocol of Saint-Petersburg and Treaty of London: reaffirming the principle of non-intervention
4.2.3. The Battle of Navarino of 20 October 1827: an 'accident' motivated by considerations of self-defence
4.2.4. The deployment of French troops in Morea in the summer of 1828: pursuing the application of the additional article of the Treaty of London
<b>4.3.</b> The Russian war declaration of April 1828: a classic case of international war
4.3.1. A war justified as a last resort measure of reprisals for the violation by the Ottoman Empire of its conventional obligations
4.3.2. A war justified as a measure of legitimate preventive self-defence reacting to the hostile declarations and attitude of the Ottoman Empire
4.3.3. The Ottoman reaction: a groundless and unnecessary war

4.3.4. The European powers' reaction: a politically inopportune but legally justified war	p. 14
Chapter 5. Justifying the French expedition in Lebanon and Syria (1860)	p. 15
<b>5.1.</b> Before Damascus: European naval patrols along the Lebanese coasts and the establishment of an international commission of enquiry	p. 15
<ul><li>5.1.1. French diplomatic lobbying: a mix of precedential and humanitarian considerations</li><li>5.1.2. European powers' reaction: following and balancing the French lead</li><li>5.1.3. The Ottoman reaction: assuring good faith and containing the disturbances to avoid further intervention</li></ul>	p. 15 p. 15 p. 16
5.2. After Damascus: sending European land troops all the way to inland Syria	p. 16
5.2.1. French diplomatic lobbying: Ottoman inability to put an end to the disturbances but the need for the Sultan's consent	p. 16
<ul><li>5.2.2. European powers' reaction: the pre-requisite of consent and necessity</li><li>5.2.3. The Ottoman reaction: reluctantly consenting to an unnecessary military intervention</li></ul>	р. 17 р. 17
Chapter 6. Justifying Spanish-American War over Cuba (1898)	p. 18
6.1. June 1897 to March 1898: US 'benevolent expectancy' under threat of intervention	p. 18
6.1.1. Spain's inability to put an end to the contest and the specific damages caused by the continuation of the war to the United States	p. 18
6.1.2. Spanish reaction (i): rejecting the United States' doctrine of intervention in a civil conflict	p. 18
6.1.3. Spanish reaction (ii): reminding the United States of its obligations, as a friendly nation, to contain the insurgents' activities on its territory	p. 19
<b>6.2.</b> April 1898: putting the threat of 'neutral intervention' to execution and the beginning of the war	p. 19
<ul><li>6.2.1. Neutral intervention in the name of humanity, of the protection of American nationals, commerce and security</li><li>6.2.2. Spanish reaction: an illegal intervention leaving Spain with no choice but to go to war</li></ul>	p. 19
to defend its honour and territory	p. 20
6.2.3. The European attitude: avoiding taking sides and positions	p. 20
Conclusion to part 2. Some reflections on the differences between past and modern State practice	p. 20
Part 3	
The narrative 'Indifference' in the Twentieth Century (Disciplinary identity and legitimacy)	
Introduction to Part 3	p. 21
Chapter 7. Disciplinary beliefs about international law and the rhetoric(s) of indifference: a mirror-effect	p. 22
<b>7.1.</b> Disciplinary beliefs about international law: law as a vector of social order and progress	p. 22
7.1.1. The function(s) of international law: injecting order in an otherwise chaotic	p. 22

7.1.2. The 'effectivity complex' of international law: John Austin's enduring spectre and the	
refuge of formalism	
7.1.3. Historiographies of international law: a story of constant progress of law and through law	
7.2 and the rhetorics of 'indifference': law and order vs. politics and anarchy	
7.2.1. The narrative of 'total indifference'	
7.2.1.1. Content and ambiguities of the narrative of 'total indifference'	
7.2.1.2. The rhetorical structures of the narrative of 'total indifference'	
7.2.2. The narrative of 'partial indifference'	
7.2.2.1. Content and ambiguities of the narrative of 'partial indifference' 7.2.2.2. The rhetorical structures of the narrative of 'total indifference'	
7.2.3. Questioning the content and rhetorics of indifference	
7.2.3.1. A theoretical challenge: Hans Kelsen and the normativists	
7.2.3.2. A political challenge: Carl Schmitt and the Soviet literature	
7.2.3.3. A historical challenge: Leo Strisower and the contemporary scholarship	
Chapter 8. The emergence of 'indifference' in the interwar: preserving identity	
by restoring credibility	I
<b>8.1.</b> International order as interstate peace, the Great War and the failure of international law: 'indifference' as a narrative remedy	
8.1.1. The meaning of 'order': ensuring interstate peace as the prime function of international law	
8.1.2. The Great War and the failure of international law (i): 'indifference' as narrative remedy for a cognitive dissonance within the profession	
8.1.3. The Great War and the failure of international law (ii): 'indifference' as narrative remedy for a loss of credibility outside the profession	
<b>8.2.</b> The Covenant of the League of Nations as the consecration of pre-war war prevention projects: 'indifference' as an emotional reaction	
8.2.1. From <i>Alabama</i> to The Hague: arbitration becomes the project of international lawyers 8.2.2. The Hague Peace Conferences: disappointment and persistent optimism in the face of semi-successes	
8.2.3. In Paris: relief and pride at the culmination of fifty years of pro-arbitration efforts	
8.2.3.1. The narrative of 'indifference' as an expression of relief 8.2.3.2. The narrative of 'indifference' as an expression of pride	
Conclusion to part 3. Some reflections on the persistence of 'indifference' in modern day doctrine	
General conclusion	
Mise en abyme: the 'hidden agenda' of deconstruction	
Bibliography	