

Going to War on the Back of a Turtle

Creation Stories and the Laws of War in John Norton's *Journal*

In the middle of his *Journal* (1810–16), John Norton breaks away from an account of his career as a Mohawk war chief to tell the story of the world's creation. The story seems out of place in a narrative that is otherwise occupied with diplomacy and warfare. Norton tells of an ancient mother, her fall and rescue by a turtle who rises from the deep to catch her, and finally the victory of her good grandson, Teharonghyawago, over his evil twin, Tawiskaron. Yet near the end Norton makes a surprising connection between the creation story and the military exploits in the rest of the *Journal*. The triumph of the good twin, he writes, illustrates an ethic of warfare that has guided the people in all of their conflicts, from ancient times to their present alliance with Great Britain. "Teharonghyawago always assisted [the people] in their wars, when they were undertaken with just cause," he concludes (88).

In Norton's retelling, this famous creation story, sometimes known as the earth-diver story, becomes a parable of just war, a source of moral principles that explain and justify collective acts of violence.¹ It also becomes, in its concluding wisdom about the rights of war, an argument about the relationship between native and Western law. In using the phrase "just cause," Norton referenced a well-known formula from the European laws of war requiring that nations possess a valid *casus belli*, or cause of war, before engaging in hostilities.² Norton wrote his *Journal* at a time when many Western jurists, surveying the very wars in which Mohawks had fought, were expounding anew on the need for a just cause for war.³ Norton's creation story comes in a form radically different from most European writings on the topic, found usually in academic treatises or diplomatic conventions. Yet for all its dissimilarity, it reaches some of the same conclusions as European scholars, implying a hidden identity between indigenous and West-

ern traditions. Norton's story hints that the Six Nations of the Haudenosaunee (Iroquois) Confederacy may have answers to some of the most intractable problems of European diplomacy.

In this essay, I consider the many creation stories retold in Norton's *Journal*, a magisterial account of Six Nations mythology and military history. I argue that throughout the book Norton portrays Six Nations stories as a source of ethical and legal norms that intersect at crucial points with the European laws of war. These intersections—seen, for example, in a common embrace of just cause—support the broader claim, found throughout the *Journal*, that Native American nations are entitled to recognition from Western diplomats, not simply as dependent nations, but as equals under international law.

For Six Nations leaders in Norton's era, there was an important link between the laws of war and diplomatic recognition. Norton wrote his *Journal* to support an appeal to the British Crown for land rights on behalf of the Six Nations of the Grand River. He composed most of it after 1810 and in 1816 deposited an unfinished copy with supporters in Great Britain, with hopes they would oversee its printing and distribution.⁴ The book, which remained in manuscript until its publication by the Champlain Society in 1970, was part of a largely failed campaign to interest philanthropists and government leaders in the Mohawk cause, with the aim of creating a metropolitan base of support for the tribe. One of the many obstacles standing in Norton's way was the allegation of "cruelties exercised by the Indians" fighting in the service of the British Crown (303). From the beginning of the American Revolution, propaganda on both the American and British sides had portrayed Indians as war criminals.⁵ In the Declaration of Independence (1776), Thomas Jefferson had written that the Crown's Indian allies, among them Six Nations warriors, were "merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions" (431). Supporting Jefferson, many legal theorists had argued that Indians were not entitled to recognition under international law because they showed no mercy to enemies, making them unfit to stand among civilized nations.⁶

Such allegations were a particular problem for the Mohawks at Grand River, whom Norton represented in negotiations with the British government and provincial administration of Upper Canada. Norton's uncle, Joseph Brant, was an alleged war criminal, portrayed in Britain as "the

monster Brandt” for his supposed massacre of Patriot families during the American Revolution (Campbell 3.16.4). Similar allegations of “cruelty” surfaced as Norton and other Six Nations warriors at Grand River joined the British side in the War of 1812 (Norton, *Journal* 291).⁷ For Norton, who suspended work on his *Journal* to fight in the war, these accusations threatened not only the prospects of peace with the United States but also the continued support of Grand River by the British Crown, as well Norton’s relations with other members of the Six Nations, who opposed his participation in the war. As they fought alongside the British, many Mohawks also fought to clear their own names, answering the charges of war crimes that followed them across the battlefields of imperial conflicts.⁸

By focusing on Six Nations traditions of warfare, as embodied in creation stories, Norton’s *Journal* offers the most extended rebuttal of accusations that Six Nations warriors have committed crimes of war. He shows that Six Nations traditions of legal violence are just as old as those of Europeans and, even if they come in a different form, deserve recognition under the same diplomatic laws. The concept of recognition has recently received fresh critical attention in First Nations scholarship, casting new light on the period of the late eighteenth century, when many First Nations settlements first acquired treaty rights from the British government.⁹ Many scholars working on the period have portrayed recognition largely in vertical terms, with Indians as dependent nations of imperial states or tribal subjects of metropolitan power.¹⁰ Norton and the settlement at Grand River certainly seem to fit this model. Norton fought for the British in the War of 1812, was affiliated with Reformed evangelical circles, and wrote his *Journal* as part of an appeal to the British Crown.¹¹ Much of the scholarship on Norton has correspondingly emphasized his role as a broker of imperial power, a figure who mediated between tribal and metropolitan authority.¹²

However, the claims of Norton’s *Journal*, based as they are on the laws of war, depart from the politics of vertical recognition in a significant way. While much scholarship on recognition has considered how indigenous people positioned themselves in hierarchical power structures, with a European government at the top, Norton’s writings about the laws of war are addressed instead to the horizontal space of international order, where states and people confer recognition on one another through the articulation of a shared legal framework. As Jefferson’s words in the Declaration reveal, what was at stake in so many allegations of Indian massa-

crees was not simply the guilt of particular tribal leaders but also Indians' very belonging to international order, "the separate and equal station . . . among the powers of the earth" that Jefferson invoked in the same document (429). Even as he lobbied the British Crown for Mohawk land rights, Norton sought to describe a distinctive ethic of warfare found in the creation stories of the Six Nations, one that demonstrated the peoples' long-standing and independent legal identity.¹³ This ethic, he shows, is on display in the American Revolution and the War of 1812, in which the warriors personify the wisdom and restraint found in ancient stories. However, according to Norton, the presence of a legal imperative in the warriors' actions does not show simply that Indian laws are equivalent to European ones, or that Indians deserve recognition from superior European powers. Instead, it points to deeper similarities between creation stories and the European laws of war, which suggest to Norton the possibility of a reciprocal recognition between peoples. By recognizing similarities in their laws of war, Norton tries to show that all the nations of North America, native and European, can recognize one another's right to equal diplomatic standing.

In bringing together creation stories and other ways of codifying law, Norton explores genres of legal and ethical thinking not typically brought into conversation with the traditions of the European Enlightenment. Despite (or perhaps because of) its unusual form, Norton's book might productively be compared with treatises by European thinkers such as Emer de Vattel's *The Law of Nations* (1758) and Immanuel Kant's *Perpetual Peace* (1795), which derived the rights of individuals from nations' recognition of one another. Yet Norton's surprising use of a creation story to make an argument about recognition raises the question, long contested, of how indigenous genres of law relate to more familiar European ones. Nowhere in the *Journal* does Norton lay out a theory of international jurisprudence in the manner of Vattel or Kant. His argument proceeds instead by gathering and juxtaposing many different ways of reckoning law and order, in the hopes of finding similarities in what at first appear to be radically different genres.

In many scholarly accounts of international law, differences in the material embodiment of various legal traditions are passed over as if they are immaterial to the substance of the law. European legal traditions are often treated as a set of mental axioms or norms arrived at through rational de-

liberation and then set down on paper, while Indian laws are understood as timeless customs emanating from oral culture, ritual, or ceremonial objects such as peace pipes.¹⁴ Yet the question of the form or genre of the law always came to the forefront in colonial contexts where invaders and colonized peoples not only possessed different legal norms but also different techniques for materializing those norms. As David J. Wellman has shown in his study of Spanish diplomacy with Morocco, cooperation between the two countries in modern times has been premised on the recognition of commonalities between Christian and Islamic traditions of diplomacy. Wellman argues that creation stories, as a fundamental narrative basis of ethics, were crucial to this process.¹⁵ By identifying similarities between stories, seemingly opposed groups found a shared vocabulary for negotiating an end to conflicts. Peace proceeded, according to Wellman, from an initial recognition of formal difference to an embrace of underlying similarities in the ethical content of different traditions.

Norton's *Journal*, I suggest, models a diplomatic process similar to the one described by Wellman. Norton wrote his *Journal* not simply to tell the story of the Six Nations but also to locate them in a broader world of diplomacy that included the Cherokees, Plains Indians groups, and French and English invaders. Like most Six Nations leaders, Norton was multilingual and schooled in the diplomatic protocols of many nations. Born in Scotland to a Scottish mother and Cherokee father, who had been kidnapped by the British from Keowee (now Oconee County, South Carolina), Norton came to North America as a British soldier and was adopted by the Mohawks, learning their language, laws, and diplomacy, and eventually rising to a leadership position in the tribe. In addition to documenting Six Nations military history, Norton's *Journal* also describes his travels and diplomacy among other groups, particularly the Cherokees, who recognized him as a member of their nation.¹⁶ Part travel narrative, part military history, part collection of Six Nations stories, the *Journal* has a hybrid quality, gathering into one set of pages the many ways of narrating war Norton encounters in his career. This eclectic design, I argue, is part of Norton's strategy for envisioning a new kind of diplomacy. Drawing on the traditions of the many nations he encounters, Norton compiles stories, myths, rituals, eyewitness testimony, and many other modes of narration used to sort out the rights and wrongs of war. Despite their disparate cultural and racial provenances, Norton presents these different modes of law as

ultimately coming to similar conclusions about the ethics of violence. This formal juxtaposition of different genres works for Norton as an allegory of how diplomacy might function in a peaceful world. Set side by side, native and Western traditions are shown to embrace common wisdom about mercy, restraint, and humanity on the battlefield, despite coming in different narrative forms. This alignment of traditions in writing, Norton hopes, can one day form the basis of a shared legal order in practice.

Norton's attempt to find resources for peace in the convergence between radically different legal systems has much relevance for contemporary debates about the laws of war.¹⁷ In his book *War of the Worlds: What about Peace?* (2002), Bruno Latour has identified *jus naturalism*, or a law deriving from nature, as the overarching framework governing the Western world's diplomatic approach to indigenous people and other supposed outsiders. *Jus naturalism*, Latour argues, uses science to derive law from nature, denying the validity, or even possibility, of disagreement about other sources of law. This unilateral approach to diplomacy has left the West, in modern times at least, without a means of engaging with the radically different worldviews of its enemies. Optimistically, Latour points to the "loss of the possibility of reaching assent by an appeal to external nature" in recent wars against terrorism as a starting point for new models of diplomatic engagement (41). As Western diplomats realize, in the course of seemingly intractable conflicts, that their laws are not natural or universal, both Western law and that of other peoples can be brought into a dialogue that has peace, rather than the assumed triumph of Western order, as its goal.

Latour's argument that peace requires a genuine confrontation with the radically different laws of one's enemies would have been well understood by many indigenous diplomats in Norton's time, who negotiated from a position of weakness and were forced to find points of contact or intersection between their own legal systems and those of invaders. These efforts to mediate between worlds did not necessarily leave them in a subordinate position. On the contrary, as Latour argues, only by confronting differences can diplomats find the convergence of goals and aims that is requisite for peace. In his *Journal*, Norton writes to preserve both indigenous and European sources of law, and to bring them together as a basis for a future accord that can respect both. Norton's comparisons primarily turn around three points of contact between native and Western traditions. First, he explores *jus ad bellum*, or the right to make war, showing that creation stories

reach conclusions about just cause that are similar to the natural-law traditions of Western theorists. Second, he examines *jus in bello*, or justice in war, which encompasses violence against women, children, prisoners, and other noncombatants—categories that were prominent in allegations of Indian war crimes but also in Six Nations legal history. Finally, Norton describes *jus post bellum*, or the laws of peace, which govern the conclusion of war and offer resources for ending conflict, an urgent task not only for the Six Nations but also for the Cherokees and other groups that had fought against the United States.¹⁸ Importantly, Norton does not argue that creation stories are simply equivalent to these dimensions of European law—a claim that would define Eurocentric systems as a universal standard by which indigenous traditions could be judged. Rather, he shows that the many legal traditions of imperial North America reach common ethical conclusions, as can be seen in the similar principles that appear unexpectedly in different forms. Norton compares Six Nations stories to European laws without giving priority to either, thereby suggesting that warring parties might one day achieve a peace not based on hierarchy or exclusion.

THE LAWS OF (INDIAN) WAR:

CREATION STORIES AND *JUS AD BELLUM*

In the decades before Norton's writing, the concept of *jus ad bellum* and the related idea of just cause had gained great prominence in the works of European jurists. In *The Law of Nations*, Emer de Vattel, the most prominent eighteenth-century authority on the subject, argued that nations could only go to war for serious causes. "Whoever forms to himself the idea of war, considers its terrible effects, its destructive and unhappy consequences," he wrote, "must agree, that it should never be undertaken without the strongest reasons" such as "defence, and the support of [nations'] rights" (10). In addition to Vattel, many other authorities expounded on *jus ad bellum*, seeking to limit the reasons for war in order to protect the civilians and soldiers who bore the brunt of military campaigns (see Johnson). Norton's reference to this concept in the context of a creation story immediately suggests a connection between ancient Mohawk traditions and the more recent thinking of Vattel and others. This convergence of oral and written traditions he further explores by examining a famously

contested negotiation of *jus ad bellum* in the recent history of the Six Nations—the Mohawks' entrance into the American Revolution on the side of the British. The warriors' actions, as Norton describes them, are seen to resemble those of Teharonghyawago in his combat with Tawiskaron. Yet they also conform to European codes of war, suggesting an unexpected similarity between the two traditions.

In his story of the struggle between the good and bad brother, Norton carefully reframes ancient mythology to show that Teharonghyawago has fought a defensive war. The legal significance of the ancient story emerges in Norton's blow-by-blow retelling of it. After the good twin Teharonghyawago suffers abuse from the bad twin Tawiskaron, the Great Turtle, the spiritual father of both, advises Teharonghyawago to resist attacking and instead to "bear it with patience" (*Journal* 86). Following this advice, Teharonghyawago "wait[s] with patience the result of what his father had told him." Finally, a "stately buck" appears to him, warning him of an impending attack by his brother (87). "[A]s soon as he assaults you, exert yourself, and you will overcome him," the buck counsels. Taking this advice, Teharonghyawago holds back, and when the assault comes, he attacks, and "Tawiskaron [falls] under the conquering hand of his brother" (88).

Though coming in a form that would have been unrecognizable to Vattel and other European writers, Norton's retelling of the story has the force of a legal norm. The patience of Teharonghyawago, his resort to violence only in the last instance, establishes a paradigm of Six Nations warfare that is seen again in Norton's many stories of Mohawks' participation in the American Revolution. Like his portrayal of Teharonghyawago's combat against Tawiskaron, Norton presents the Six Nations' entrance into war as above all a response to American attack, a purely defensive engagement that embodies the same principles as Teharonghyawago's exemplary victory over Tawiskaron.¹⁹ "When Canada was attacked by the army of the Revolutionists," Norton writes of the invasion of Canada (1775–76), "two Hundred Warriors of the Nottowegui [Six Nations] descended the St. Lawrence to aid in expelling them, and, in conjunction with a few Troops,—and some of the Catholic Nottowegui, they attacked the Americans at the Cedars or Ataghkwiseregui, and after a short contest, took the whole Party" (*Journal* 263). Like Teharonghyawago attending to the counsel of the stately buck, the native warriors wait to pick up their weapons until the Americans invade outright. And like Teharonghyawago they prevail, fight-

ing with the blessing of the Great Spirit. But their actions also make sense according to Vattel's code and other European theories of war. As Norton delineates them, the warriors' violence clearly meets the criteria of a defensive war. Norton's account of the beginning of the war not only replays the drama of the creation story but also satisfies European requirements for a just cause. His revisionist history is a rejoinder to those who would malign Indians as savage or bloodthirsty fighters, but it also reveals profound similarities between European and native ways of war. In the warriors' defensive resolve, disparate legal systems align.

As well as emphasizing the defensive nature of the war, Norton also points to the warriors' patience, another virtue rewarded by *Teharonghyawago* but equally recognized by Vattel (14). The warriors' restraint is on display in Norton's account of the Battle of Wyoming (1778), sometimes known as the Wyoming Massacre. Patriot propaganda portrayed this event as a slaughter of fleeing troops on the part of the Loyalists and their native allies.²⁰ Norton, however, recasts it as a battle in which the Indians have shown great restraint and cannot be counted as unlawful aggressors even though they are part of an invading army. When Colonel John Butler, the leader of the Loyalist force, sends a messenger to an American fort to demand a surrender, he receives a threat that is directed not only at his British troops but also at their native allies. The scouts, Norton writes, "returned with a report that the Americans were assembled [at the fort] in considerable force, and that after bantering them on the summons to surrender, they [the Americans] said, 'We will give you and your Tawny Allies a Warning, so that by noon, you will stand in need of Water wherewith to cool yourselves'" (*Journal* 266). Obligated to defend themselves from this threat, Butler's men and the Indians approach the fort. The approach, however, is not an attack—the aggression is again on the American side, as the Patriots confront the Six Nations fighters. "The Warriors lay flat on their faces," Norton writes, "with orders to remain in that position until the Signal for a Charge should be given." Finally, "the Americans were seen advancing in full front, Shouting and Charging at intervals, as if they thought thereby to frighten away the Warriors, who patiently awaited their approach" (266). Norton's portrayal of the battle is unorthodox and difficult to reconcile with other sources—he presents the warriors as fighting a defensive war even though they have first surrounded the fort. But the use of the word "patiently" links the Battle of Wyoming to the creation story. Like

Teharonghyawago, who receives a counsel of “patience” from the Great Turtle, the warriors “patiently” maintain their reserve in the face of the “Shouting and Charging” of the Americans. The result is the same as in the creation story—the triumph of those who delay violence until it is absolutely necessary. Waiting for the enemy’s attack, the warriors are blessed with victory, even as Great Britain loses the campaign and then the war (266). The warriors’ actions reflect ideas of patience inherited from Teharonghyawago, but are also defensible under European legal systems requiring a just cause for hostilities. This similarity between traditions, revealed in the warriors’ conduct, belies European legal theory and its emphasis on the alien and criminal nature of Indian war making.

The warriors’ restraint, at moments of the war widely associated with Indian crimes, disproves the propaganda that was so much a part of the American view of Indians. Faulted for their precipitous entrance into the war, the Indians, according to Norton, strictly observe ancient legal systems, acting in conformity with indigenous and European laws. Yet the Americans either ignore or fail to see the patience of Teharonghyawago in the warriors’ actions, or the conformity of Indian warriors to European codes, and insist instead that Indians have engaged in a lawless invasion of American territory. The end of the war finds the Patriots initiating further wars of aggression in the northwest and against the Cherokees to the south. Norton’s account of the American Revolution concludes with a description of the Sullivan Expedition (1779), an American invasion of the Six Nations on orders from George Washington.²¹ While the warriors have conformed both to Indian and European legal norms, the United States confronts its tribal antagonists not as equal combatants, who would be entitled to protection under the laws of war, but as mindless savages, acting outside the law and thus undeserving of diplomatic recognition. Therefore, Norton next turns to Indians’ behavior in battle itself to make his case for their standing under international law.

SACRIFICING THE WHITE DOG: ATROCITY AND HUMANITY IN NORTH AMERICAN WAR MAKING

During the Revolution, the question of the justice of Indian behavior in combat was a central point of controversy. John Norton challenged the claim of Indian criminality by retelling the history of the war’s beginning,

emphasizing the patience of the warriors and their might in battle when fighting for good reasons—all virtues, Norton claims, found in Six Nations traditions as well as in the Eurocentric laws of war. This interpretation of events argued for Indian recognition under the international legal systems cited by Jefferson and others. Yet accounts of just cause did little to address the allegation, often appearing in newspapers, that Native Americans waged war without quarter for women, children, and prisoners, killing them in battle or sacrificing them in ritual ceremonies.²² These claims, which referenced the body of law described as *jus in bello*, or justice in war, found support in the work of Vattel, who held that Indians were entitled to no protections under the laws of war because they extended none to enemies.²³ The propaganda reached a fever pitch after John Butler's campaign against western settlements when Joseph Brant in particular became the target of politicians and printers seeking to demonize Britain and its Native American allies. Accusations of atrocity were repeated in the interval between wars and revived during the War of 1812, when some Mohawks again enlisted on the British side.²⁴ In his *Journal*, Norton acknowledges Native Americans' torturing of prisoners, but argues that Six Nations peoples have forsaken such practices and now treat prisoners humanely. This evolution, Norton is clear to point out, is not a result of Christian evangelism or European intervention, but instead is the result of an internal reform, brought about by a reinterpretation of the Six Nations' own storytelling traditions.

According to Norton, native practices for treating prisoners derive from the earth-diver story, which, in addition to describing the conditions under which people go to war, also directs their behavior in battle. After triumphing over his brother, Norton continues in his telling of the story, Teharonghyawago roams the world on the back of the turtle, free from the assaults of the evil twin. One day during his travels, he meets a young man who tries to capture his likeness, but cannot make an image of him. Teharonghyawago tells the young man to create an entirely new people instead, but the young man replies that such a task is more suitable to Teharonghyawago himself. So Teharonghyawago takes some earth and makes "the aboriginal natives of America." Befitting their origin in this great act of creation, the people look on him "as their Great Patron." It is to Teharonghyawago that "they h[a]ng on the Great War Kettle with seven faces, when they prepar[e] for war," and to him that "they offe[r] the devoted vic-

tims taken in war.” But Teharonghyawago no longer demands ritual sacrifice or the torture of enemies, Norton relates. As the Great Patron of War, he presides over a great change in how the people treat their enemies. By the time of the American Revolution, human sacrifice and ritual torture are long past: “At present the only sacrifice they offer him, is a white dog” (*Journal* 94).

Norton’s story of the further travels of Teharonghyawago includes a frank acknowledgment of the role of violence and the torture of military captives in Six Nations history.²⁵ Norton’s accounts of ancient times elsewhere in the *Journal* are equally vivid in their portrayal of the intense violence of native warfare. At moments, the *Journal* even seems to reinforce the stereotype of the marauding Indian from the Declaration of Independence. As Norton travels from the Ohio River Valley to Cherokee country, for example, he comes across battle sites, mass graves, and monuments that speak to the continent’s violent past. Finding some gently rounded hills in a sunlit bend in the Ohio River, he immediately recognizes them as graves marking “where the ancient Warriors had contended for mutual destruction.” These graves are only a few of the “antique monuments of Mortality” that dot the landscape (14). The grim legacy of the burial mounds is not just an inheritance of the Six Nations, but a fact of native history throughout the South as well; the Cherokees, the Osage, the Creeks, the Choctaws, and the Chickasaws all have similar markers of ancient wars and their terrible results.²⁶

Yet as the story of Teharonghyawago describes, the Six Nations have undergone an evolution in their practice of violence. While in ancient times “petty Partizan wars continued for many years without ever deciding any point in contestation” and warriors “slaughtered many of the hostile Nation, without regard to age or sex,” today “times have changed,” and Indians now “look upon each other as brethren of the same family” (Norton, *Journal* 40). This latter development is glimpsed in the conduct of native leaders, such as Joseph Brant, during the many massacres and killings of recent frontier wars. Perhaps the most controversial moment Norton describes is the Cherry Valley Massacre. The details of the massacre, and Brant’s participation in it, were immediately disputed, and remain so to this day.²⁷ Norton, however, writes to vindicate Brant of wrongdoing, and claims that the killing was the work of warriors carried away by the intensity of the battle, who violated their leaders’ commands. In Norton’s opin-

ion, Brant's actions at Cherry Valley represent an enlightened view of violence, one reflecting the example of Teharonghyawago as much as it does the European laws of war. "In the Autumn, Cherry Valley or Karightouke was assailed by a considerable Body of the Five Nations," Norton writes, "who being provoked by the resistance they had met with in the assault,—many of them committed great cruelties, in spreading general devastation & Slaughter, notwithstanding the exertions of Col: Brant, Col: Butler and others to prevent these Excesses" (267). In some ways, Norton's description downplays the atrocity itself. What appears to be an act of aggression on the part of the warriors finds a mitigating circumstance in "the resistance" of Cherry Valley residents, who "provok[e]" the warriors into an escalation of violence against civilians. However, Norton also portrays the massacre as an egregious violation of the laws of war, one that Brant struggles to prevent. While the Indians may have committed atrocities, Norton is clear that it was only in violation of a broader ethic that guides tribal leaders like Brant.

As Norton makes clear, such "Excesses" are anomalies, and not characteristic in any way of native dispositions or culture, at least in recent times. At the Battle of Wyoming—where the Indians had earlier conquered with just cause—the warriors find themselves again in possession of prisoners at the end of the battle. A confrontation with a Christian minister, however, demonstrates the merciful attitude that Norton believes characterizes their way of war more generally. After the end of the fighting, "a Clergyman made his appearance," Norton writes, "begging a Truce,—& praying that the victorious Warriors might . . . refrain from further hostility, as none were now left but helpless Women and Children." The clergyman tells them "he had used his utmost exertions to prevail on his countrymen to accept the offered Peace, previous to their last fatal appeal to arms." Though flush with victory, the warriors are receptive to his explanation, and imprison, rather than kill, their captives. "The Warriors listened to the words of peace he delivered, and after they had provided themselves with provisions,—destroyed the Fort, and spiked the cannon, they returned with their captives" (*Journal* 267). Crucially, the clergyman does not have his expected function in colonial literature of converting the warriors to a merciful way of concluding battle. Instead, he apologizes for his countrymen's failure to pursue diplomatic resolution, showing that the warriors are the ones who behave humanely while the Americans have waged a

reckless war that has imperiled their own families. The warriors' mercy to prisoners is not inspired by the minister's intervention, but is part of their own ethic of war, which guides their actions at every point.

Such moments, along with many others in the *Journal*, turn familiar stories of evangelism on their head. Rather than heeding the words of Europeans, the warriors already possess a merciful attitude toward others, as illustrated in their conduct toward the prisoners. The moment suggests a shared ethos between cultures and hints at the possibility of an eventual, peaceful resolution of the war. This possibility is further glimpsed in Norton's interviews with Americans themselves about the violence of the recent past. As well as describing the lawful conduct of Six Nations warriors, Norton also portrays the many massacres perpetrated by American troops. However, even though Norton finds Americans guilty of shocking acts, he learns that many, like the ancient tribes before them, have abandoned violent ways and regret previous actions. Throughout his narrative, Norton uses the words of ordinary Americans against their leaders, showing that US policy embodies a suspicion of native people that many Americans do not endorse. In this way, Americans are shown to have the potential to move beyond their own violent past, much like Indians have.

Almost as soon as he journeys beyond Grand River, Norton encounters people, Indian and white, who tell him about American crimes in battle. For example, coming to the bank of the Tennessee River, he meets Selukukigh Wohellengh, the son of a Cherokee leader, who tells him about the destruction of the Cherokee town of Nickajack in 1794. According to his story, the Tennesseans came into the village and "began firing at men, women and children indiscriminately," killing twenty "of all ages and sexes . . . on the spot" (*Journal* 38). Traveling to Crab Orchard, Kentucky, he similarly hears from whites how "a Cherokee was killed, in cool blood, by their unruly people," whom "[t]hey acknowledged . . . were barbarously cruel" (161). The violence in the South corresponds to what Norton has seen and heard in the North, for example during General Anthony Wayne's 1794 expedition to suppress Indian resistance near the Maumee River, where American scouts shot a peaceful hunter "in cold blood" (175). The end of the American Revolution has exposed the Indians to terrible reprisals as Americans abandon any pretense of lawful warfare.

Despite these bloody developments, Norton finds many Americans telling surprising stories about wartime behavior that do not support justifi-

cations for violence in the rhetoric of US politicians. Arriving in Nashville “at the house of [a] gentleman,” Norton joins a conversation about “the last war” between Tennesseans and Cherokees (the Nickajack Expedition in 1794). His hosts tell him “that they had been so fortunate, as not to have lost any of their relations,” but “added, that their own people, when they had obtained the advantage, had committed cruelties shocking to humanity,” including the murder of a Cherokee baby (*Journal* 29). While the hosts are patriotic Americans and celebrate their country’s victory, they are haunted by the memory of the actions of their countrymen in the war.

Set alongside the creation stories as well as Norton’s invocation of Western legal concepts, the conversations with the settlers offer another way of thinking about ethics, law, and violence on the frontier. While the United States pursues belligerence and dispossession as an official policy toward tribal groups, ordinary settlers feel an instinctive pity for the victims, deriving from their inherent sense of “humanity,” which is “shock[ed]” by the “cruelties” of the army. The language Norton uses here may have come from his association with the Wilberforce Circle, a group of evangelists who hosted him during his visit to Great Britain and exposed him to the language of the abolitionist movement (Klinck l–lix). In the context of the *Journal*, the settlers’ humanitarian response suggests US opposition to Indian tribes is not deep-seated in the public itself. “Humanity” is not an artifact only of Western law, or indeed of Six Nations stories, but rather a resource of ordinary people, who cannot countenance violence against civilians despite how politicians and diplomats might justify it. Norton’s history of imperial wars concludes with a survey of the treaties between the Cherokees and the United States, which were concluded during intense negotiations after the brutal frontier wars of the aftermath of the American Revolution. Surprisingly, it is among white settlers that Norton finds the most enthusiastic defenders of the treaties, suggesting that diplomacy—and even the achievement of a final, enduring peace—is not a hopeless endeavor on the violent border between US and tribal lands.

FORGETTING THE SONGS OF WAR:
PEACE AND *JUS POST BELLUM*

Though Norton chronicles in woeful detail the crimes against North American native people, he is also careful to point out that many tribes

have reached agreements with the United States even in places that have seen continued violence. Norton's description of the Cherokees' 1798 treaty with the United States highlights one such achievement, emphasizing the power of *jus post bellum*, or the laws of postwar diplomacy, to resolve hostilities even when war has seen unforgivable atrocities. As Selukukigh Wohellengh tells Norton, "our Beloved Men were invited by the Great Men of the Virginians to make a permanent Peace, and they concluded a Treaty at Philadelphia [in 1792],—which was soon *broken* by our *neighbours*, and again we were all in Arms—more unanimous than I had ever seen our people before. Overtures for peace were made by the United States, and our Great Beloved Man, Kenneteagh concluded a Treaty of Peace [1798], wherein our Boundary was guaranteed by the President General Washington and Congress and has been *strictly observed ever since*" (*Journal* 43). Part of Norton's intention in recounting the words of Selukukigh Wohellengh is to charge the United States to live up to the terms of the treaty—as he goes on, "I hope they may ever show the same desire to maintain Peace that they then did to make it" (43). But Selukukigh Wohellengh also credits both sides with cooperation. The history of the treaty, though spotted by violence, shows it is possible to make peace after brutal wars.

The optimistic interpretation of the treaty does not belong only to Selukukigh Wohellengh, but is shared by white settlers as well, who look to the treaty as a safeguard against violence. Though they come from a different world than Cherokee leaders, their experience of violence has brought them to the same point of exhaustion. Stopping at a tavern, for example, Norton encounters a wedding party, "all well dressed in homespun," who invite him to join them. This gesture has a political significance that its members quickly make clear. As Norton writes, "They expressed themselves very warmly with regard to the Tribes, wishing perpetual peace with them" (*Journal* 26). Another group of people in Nashville raise the question of war with Norton, but only, he writes, "to express the more strongly the love they had for peace" (*Journal* 29). Later dining with a military veteran and his family also near Nashville, Norton again reports that "[t]hey spoke very favourably of the Cherokees, saying, that since they had been at peace with them, they never did them any injury." The peace holds despite the fact that some Tennesseans murder a Cherokee, an act for which the tribe exacts justice. "At this place a boy, the brother of [Black Fox], was killed by the Tennesseans during an interval of peace for which however

the Cherokees took revenge" (30). That the incident does not spiral out of control suggests both sides' commitment to amity. At this moment, peace does not describe an absence of violence, but rather a process for resolving it in civil terms, which may include Cherokee practices of revenge killing. What is noteworthy to Norton is not the brutality of the renegades who kill the boy but rather the restraint of those Tennesseans who understand Cherokee justice and apparently allow it to proceed.

Norton concludes his travels to the Cherokee nation on a note of great optimism about the prospects for coexistence on the frontier. The sentiments gathered by Norton in his travels, from people on all sides, stand in stark contrast to the bellicose statements of US politicians about the savagery of Indians. Norton's reported conversations suggest above all the possibility of a wider dialogue between peoples that reveals deep-seated support for peace, despite what the rhetoric of war and removal might say. Norton's concluding interviews about the 1798 treaty imply that it may hold. Indeed, the history of treaties between the Cherokees and the United States, in Norton's view, is comparable to the earlier formation of a lasting alliance between the Cherokees and the Six Nations, which Norton describes elsewhere in the book and points to as an instructive political achievement (*Journal* 260). As violent as the continent's history is, there is already a precedent for a different kind of outcome in Six Nations history. In Norton's *Journal*, making peace does not require the subordination of one party to another, but instead involves gathering resources from all possible traditions to find points of agreement and overlap. This process is ironically made easier by the terrible violence of the conflicts between the United States and bordering tribes, because more than any other force violence presses upon people the need for resolution. Norton's history of the Six Nations, and the chronicle of his travels among the Cherokees, shows that all of the continent's peoples have compatible fundamental traditions, rooted in their creation stories, which can always be called upon to restore order, even if they have been forgotten at moments of violence.

CONCLUSION

Though begun on a political errand for a small settlement of Mohawks, Norton's *Journal* addresses far more than the fate of a particular nation, embracing moral and legal questions surrounding war and peace. If legal

scholars have mostly passed over Norton's contributions to international law, one reason is that his ideas had little influence over the United States or the British Crown, both of which embraced a vision of the law of nations that frequently made Indians an exception to laws otherwise understood as universal. Many academic discussions of Revolutionary-era massacres cite Norton as a Mohawk perspective on events but still employ definitions of war crimes derived exclusively from European sources.

To understand the history of international law requires looking at the traditions of the vanquished as well as those of the victors. Studies of international legal history focus largely on European diplomacy or on the works of the "fathers" of international law, such as Hugo Grotius, Alberico Gentili, or Emer de Vattel.²⁸ These studies sometimes mention the one-sided application of the laws of war to native people, but rarely describe the territorial ambitions of Native American leaders, who frequently saw their own laws as globally binding.²⁹ Often denied direct audience with American or British leaders, native diplomats publicized their ideas in oratory, creation stories, and cross-cultural dialogue, as well as in memoirs, histories, travelogues, and other written or printed genres not typically associated with international law. Along with Norton's *Journal*, there are other native works examining the laws of war on the frontier, including Black Hawk's *Life of Black Hawk* (1833) and George Stiggins's *Creek Indian History* (1835–43). Scholars have tended to read these works through the lens of landownership or sovereignty, concerns that were foremost among native writers and orators of the period, including Norton.³⁰ But many native intellectuals, experienced in both tribal and European politics, were engaged with the same questions of war, peace, and internationalism that occupied figures such as Vattel and Jefferson.

Norton draws upon creation stories to argue that the continent might become a livable place for its people, despite its violent history. In pressing his vision of international law, he does not demand simply that Europeans recognize native laws of war as an autonomous tradition, nor does he imagine a pan-nativist political order constructed solely around Native American political ideals. Instead, he surveys the history of the land, starting with the memories of its first inhabitants, and finds a common commitment to decency in war that is irreducible to any text or tradition. Though he decries violence, and ends on a note of peace, Norton is not a pacifist in the pages of his *Journal*. He recognizes war as inevitable. But he

also sees it as a potential force for peace, if only the continent's inhabitants will listen to what their stories are telling them.

NOTES

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1. Rooth and Dundes describe some of the history of this story. King describes its resonance across space and time. Norton's version has been anthologized separately and is sometimes treated as a stand-alone work. See Norton, "Creation."
2. For an account of the many legal arguments about just cause for war, see Eberle.
3. See Witt 88–93.
4. This copy was the only one to survive. Robert Barclay told Norton that "a few of my friends who have read it carefully over feel their doubts of sending it to the Press" (qtd. in Klinck xxxi). These "doubts" concerned the manuscript's length and errors. For an account of its composition, see Klinck xxiii–xxxii.
5. For an account of the development of Indian stereotypes in the United States, including that of the marauding Indian, see Deloria 1–70. For the marauding Indian in British newsprint and literature, see Bickham.
6. For Native Americans and early international law, see Anaya 13–19 and Anghie 13–114.
7. For more on these accusations see Norton, *Journal* 298, 303, 324.
8. Joseph Brant's son John traveled to London to challenge Thomas Campbell's widely read portrayal of Brant in his poem *Gertrude of Wyoming* (1809) as the leader of a "howling desolating band" (3.16.5). See Stone 379.
9. Some, including Coulthard, have pointed to contemporary forms of anticolonial activism, rather than the pursuit of recognition, as the political strategy more likely to achieve justice for indigenous people. Kam'ayaam/Chachim'multhnii offers a good overview of recent debates. See also Alfred.
10. Miller offers the definitive account of how initial European dependence on First Nations in treaties eventually gave way to First Nations dependence on Europeans. For a crucial account of tribal relations with the British Crown, see Pulispher.
11. My account of Norton's life, here and in what follows, comes from Klinck; Talman; and Benn.
12. Among scholars of literature and cultural studies, Fulford places Norton in a

transatlantic context (211–23), while Fishkin mentions his relevance to studies of transnational culture (30).

13. The question of how to refer to the Six Nations Confederacy in Norton's time is complicated. While the term *Iroquois* appears in scholarship, Norton portrays it as a French imposition and typically does not use it unless quoting European sources (*Journal* 193). Today many Six Nations people prefer *Haudenosaunee* (the People of the Longhouse). Norton prefers *Nottowegui*, but since that term is not current I use *Six Nations* or *First Nations*.
14. See Hibbitts for the importance of the senses to legal cultures.
15. Similarities between different creation stories "provide a powerful framework for . . . foundational dialogues" that influence "the viewpoints of elites as well as non-traditional practitioners of diplomacy," such as indigenous people, refugees, or stateless persons (Wellman, "Promise" 28, 40). See also Wellman, *Sustainable Diplomacy*.
16. Benn establishes Norton's Cherokee parentage. A comprehensive account of Norton's political career is Willig 161–95.
17. For a review see Paust.
18. The literature on the laws of war in Western traditions is vast. The most focused account of *jus ad bellum* and *jus in bello* can be found in Johnson. For *jus post bellum* see the essays in Stahn and Kleffner.
19. For historical background on the role of the Six Nations in the American Revolution, see Calloway and Graymont.
20. See for example the account in the *New Jersey Gazette*, which reported that "they were all, to about 30, who made their escape, scalped and butchered, by these inhuman allies of Britain" ("Fish-Kill").
21. For an account of this expedition, see Mann 51–110 and Lee 219–29. Norton's account of its brutality is historically accurate.
22. Though Europeans committed such acts themselves, they generally understood them as illegal. See McKeogh; Primoratz; and Bailey.
23. Vattel wrote, "When the war is with a savage nation, which observes no rules, and never gives quarter, it may be chastised in the persons of any seized or taken" (49).
24. For these accusations see Norton, *Journal* 291, 298, 303, 324.
25. For this history, see Richter.
26. For the history of warfare among southern groups, see Norton, *Journal* 38, 79–81, 133–35.
27. For the competing contemporary accounts of the Cherry Valley Massacre, see Kelsay 230–34. Historians have long disputed Brant's involvement. For a cautious account, see Graymont 183–91. There is also a Mohawk tradition of condemning Brant's conduct. See George-Kanentiio.
28. See for example Scott and Nussbaum. For more recent scholarship see the essays in Dupuy and Chetail.
29. See the references to Indians as victims of the European laws of war in Selesky and Neff. Williams examines the Western imposition of international law, in-

cluding the laws of war, on Native Americans, but his book is primarily a critique of Western legal systems and says less about native legal traditions. The innovative essays in Belmessous describe indigenous resistance to Western legal impositions, but mostly deal with land and property rights. The essays in Robinson offer a wide-ranging account of just war in different national and religious contexts. Gustafson offers an account of Hendrick Aupaumut that has influenced my approach to Norton.

30. See among other important studies Konkle; Warrior; Brooks; Byrd; and Nelson.

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research focuses on the Atlantic world, particularly disability, print culture, and women's writing and cultural productions during the late eighteenth and nineteenth centuries. Her book *The Capital of Charity: The Writing and Wages of Post-Revolutionary Atlantic Benevolence* (U P of New England, forthcoming) explores the emergence of the American nonprofit space as it was forged through mutually supportive relationships among literary production, benevolence, and maritime trade during an era of nascent capitalism.

JEFFREY GLOVER is an associate professor in the Department of English at Loyola University Chicago. He is the author of *Paper Sovereigns: Anglo-Native Treaties and the Law of Nations, 1604–1664* (U of Pennsylvania P, 2014) and coeditor, with Matt Cohen, of *Colonial Mediascapes: Sensory Worlds of the Early Americas* (U of Nebraska P, 2014).

PHILIP GOULD is Nicholas Brown Professor of Oratory and Belles Lettres and chair of English at Brown University. He is author of *Covenant and Republic: Historical Romance and the Politics of Puritanism* (Cambridge UP, 1996), *Barbaric Traffic: Commerce and Antislavery in the 18th Century Atlantic World* (Harvard UP, 2003), and, most recently, *Writing the Rebellion: Loyalists and the Literature of Politics in British America* (Oxford UP, 2013).

DAVID HOLLAND is associate professor of North American religious history at the Harvard Divinity School. He is the author of *Sacred Borders: Continuing Revelation and Canonical Restraint* (Oxford UP, 2011). He is currently at work on a comparative study of Ellen White and Mary Baker Eddy, as well as an intellectual biography of Perry Miller.

MAEVE KANE is assistant professor of early American history at the University at Albany, State University of New York. Her manuscript in progress examines Haudenosaunee (Iroquois) women's use of clothing from the seventeenth to nineteenth centuries to navigate the changing politics of race, gender, and civility, drawing on literary, archaeological, quantitative, and archival materials.

GEORGE MARSDEN has held teaching positions at Calvin College, Duke University, and the University of Notre Dame, where he is Francis A. McAnaney Professor of History Emeritus. His many books include *Jonathan Edwards: A Life, A Short Life of Jonathan Edwards, Fundamentalism and American Culture, The Soul of the American University*, and *Religion and American Culture*. His most recent work is *C. S. Lewis's Mere Christianity: A Biography* for Princeton University Press's series on Lives of Great Religious Books.

JOHN DAVID MILES is currently a professional-in-residence at Louisiana State University, where his time is split between the Department of English and Special Collections at Hill Memorial Library. His research focuses on how narratives about the past construct community in the present; he has written on Mary Rowlandson, the HBO series *Deadwood*, and Herman Melville. He is currently at work on a book manuscript titled "The Secular History of a Sacred Space" about the evolution of historical thought in colonial New England.

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