

The Nobel Effect: Nobel Peace Prize Laureates as International Norm Entrepreneurs

ROGER P. ALFORD*

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* Professor of Law, Pepperdine University School of Law. I gratefully acknowledge the assistance of Anne Kjelling, Head Librarian of the Nobel Peace Institute in Oslo. This Article also greatly benefited from the comments and suggestions of Laurence Helfer, Robert Anderson, and Walter Kendall and the research assistance of librarian Jennifer Allison and students Lisa Ottomanelli, Sylvia Sultanyan, and Mary Skouras.

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INTRODUCTION

The Nobel Peace Prize is the most prestigious prize in the world. Many Laureates have described how their lives changed dramatically after receiving the prize. Geir Lundestad, Secretary of the Nobel Committee,¹ has said that when he calls to congratulate the recipients of the Peace Prize, many simply cannot believe the news. They know that as a result of the prize, their lives will change forever. “Utterances that formerly went unnoticed are now subject to media coverage and commentary. In this manner the prize is a powerful megaphone. . . . Nearly all doors are opened once you have become a laureate.”² Desmond Tutu, Laureat in 1984, echoed those sentiments:

[N]o sooner had I got the Nobel Peace Prize than I became an instant oracle. Virtually everything I had said before was now received with something like awe [The] prestigious prize possessed the remarkable powers of an Open Sesame. . . . [O]ur cause was given an imprimatur as a noble and just cause and the apartheid system stamped as unjust and evil.³

This Article explores the role of Nobel Peace Prize Laureates as international norm entrepreneurs.⁴ It argues that these individuals and en-

1. For details on the composition and selection of the Norwegian Nobel Committee, see The Norwegian Nobel Institute, The Norwegian Nobel Committee, at http://nobelpeaceprize.org/eng_com_mem.html (last visited June 22, 2008).

2. Geir Lundestad, *What is the Significance of the Nobel Peace Prize?*, in *HOW? THOUGHTS ABOUT PEACE* 20, 25 (Øivind Stenersen ed., 2005).

3. Desmond Tutu, *Where is Africa Heading?*, in *HOW? THOUGHTS ABOUT PEACE*, *supra* note 2, at 6, 8.

4. For useful background information on the concept of norm entrepreneurs, see generally Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52

tities have served an especially important role in shaping the course of modern international law. Beginning with the first awards in 1901, Laureates have helped create dozens of new international norms, fostered state accession to new international laws and institutions and changed our understanding of what is required of civilized nations in the modern era. Their causes have been legion and their legacy monumental. As a distinct epistemic community, they have played an indispensable role in the evolution of international norms. But scholarly appreciation of their impact on international law and institutions is surprisingly and seriously deficient.

In focusing on Laureates as norm entrepreneurs, this Article is part of a larger project that will analyze the Nobel Peace Prize's role in the evolution of international norms. For the first time in scholarly literature, this project considers the history of modern international law from the perspective of the Nobel Peace Prize.

This project furthers and builds upon the constructivist literature on international relations, which posits that state preferences emerge from social construction and that state interests are evolving rather than fixed.⁵ It adopts an evolutionary theory of the development of international norms and applies it to the norms advanced by the elite category of norm entrepreneurs. As such, this project is the first to present a history of modern international law through a constructivist lens.

This project takes as its premise the constructivist model of international relations.⁶ At its core, “[c]onstructivism asks how norms evolve and how identities are constituted, analyzing . . . the role of identity in shaping political action and the mutually constitutive relationship between agents and structures.”⁷ It thus treats international law as a dy-

INT’L ORG. 887 (1998).

5. Ann Florini, *The Evolution of International Norms*, 40 INT’L STUD. Q. 363, 366–67 (1996).

6. There is an enormous amount of constructivist international relations literature. See, e.g., MARGARET KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* (1998); NICHOLAS GREENWOOD ONUF, *WORLD OF OUR MAKING: RULES AND RULE IN SOCIAL THEORY* (1989); *THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE* (Thomas Risse et al. eds., 1999); Finnemore & Sikkink, *supra* note 4; Ryan Goodman & Derek Jinks, *How to Influence States: Socialization and International Human Rights Law*, 54 DUKE L.J. 621 (2004); Oona A. Hathaway, *Between Power and Principle: An Integrated Theory of International Law*, 72 U. CHI. L. REV. 469 (2005); Ellen L. Lutz & Kathryn Sikkink, *International Human Rights Law and Practice in Latin America*, 54 INT’L ORG. 633, 640 (2000). On constructivist literature in general, see CASS SUNSTEIN, *FREE MARKETS AND SOCIAL JUSTICE* (1997); Cass Sunstein, *Social Norms and Social Roles*, 96 COLUM. L. REV. 903 (1996).

7. Oona A. Hathaway & Ariel N. Lavinbuk, *Rationalism and Revisionism in International Law*, 119 HARV. L. REV. 1404, 1411 (2006).

dynamic process in which agents interact with state actors and advance new norms, and it suggests that states will adopt and ultimately identify with those norms. Constructivism asks the foundational question of how the constituent actors in international relations—territorial states—acquire their current and future identities and interests.⁸ It postulates that the building blocks of international reality are “ideational” as well as material and that such ideational factors are not independent of time and place and find expression in both individual and collective intentionality.⁹

Constructivism’s focus on norms, identity, and agency has its origins in political science, but the theory is also a natural companion to traditional international law scholarship.¹⁰ According to international relations scholars Martha Finnemore and Kathryn Sikkink:

International law . . . has been ignored by [international relations] scholars for decades, yet customary international law *is* norms Understanding which norms will become law . . . and how . . . compliance with those laws comes about would seem . . . to be a crucial topic of inquiry that lies at the nexus of law and [international relations].¹¹

Finnemore and Sikkink have provided one of the more significant articulations of a constructivist theory of international relations, positing that international norms have a life cycle composed of three stages: norm emergence, norm acceptance (also known as a “norm cascade”), and norm internalization.¹²

Regarding the norm emergence stage, they argue that “[n]orms do not appear out of thin air; they are actively built by agents [with] . . . strong notions about appropriate or desirable behavior in their community. . . . Norm entrepreneurs are critical for norm emergence because they call attention to . . . or . . . ‘create’ issues by using language that names, interprets, and dramatizes them.”¹³ In the stage of norm emergence, norm entrepreneurs utilize their organizational platform and, through the art

8. John Gerard Ruggie, *What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge*, in *EXPLORATION AND CONTESTATION IN THE STUDY OF WORLD POLITICS* 215, 223 (Peter J. Katzenstein et al. eds., 1999).

9. *Id.* at 239.

10. See Hathaway & Lavinbuk, *supra* note 7, at 1411; see also Jutta Brunnée & Stephen J. Toope, *International Law and Constructivism: Elements of an Interactional Theory of International Law*, 39 *COLUM. J. TRANSNAT'L L.* 19, 38–42 (2000).

11. Finnemore & Sikkink, *supra* note 4, at 916.

12. *Id.* at 896–97.

13. *Id.*

of persuasion, attempt to secure acceptance of emerging norms by state actors.¹⁴

In the second stage of the life cycle, an emergent norm reaches a “tipping point” and moves toward acceptance by states.¹⁵ “Such institutionalization contributes strongly to the possibility for a norm cascade both by clarifying what . . . the norm is . . . and by spelling out specific procedures by which norm leaders coordinate disapproval and sanctions for norm breaking.”¹⁶ Typically, norm acceptance stage actors are states and international organizations, and they use socialization and institutionalization to secure legitimation of an international norm.¹⁷

In the third stage of internalization, “norms may become so widely accepted that they are internalized by actors and achieve a ‘taken-for-granted’ quality that makes conformance with the norm almost automatic.”¹⁸ The main actors in this final process of internalization are laws, professions, and bureaucracies that achieve normalization through habit and institutionalization.¹⁹

This norm life cycle has had considerable impact in constructivist scholarship, and it serves as a framework for analyzing Laureates as norm entrepreneurs. This Article focuses on norm agency, and specifically on Laureates as entrepreneurs of emerging laws and institutions. In this sense, this Article is largely historical and biographical in that it emphasizes how elite norm agents have advanced the cause of particular international laws and institutions. Because the emphasis in this Article is on Laureates as entrepreneurs, the focus of the norm life cycle is on norm emergence and, to a lesser extent, on norm acceptance and norm internalization. Subsequent work on this project will offer a more sustained analysis of the international norms advanced by Laureates and how those norms emerged, cascaded, and were eventually internalized by state actors.

It is clear that, during each of what I have categorized as the five periods in the life of the Nobel Peace Prize, Laureates highlighted different international norms at different times. The emergence and cascading of international norms is evident from not only a subjective assessment but also an empirical examination of the frequency with which international norms are discussed in each period. In order to identify which in-

14. *Id.* at 898–900.

15. *Id.* at 901.

16. *Id.* at 900.

17. *Id.* at 898.

18. *Id.* at 904.

19. *Id.* at 898.

ternational norms emerged and cascaded during each period, this Article incorporates an empirical analysis of the themes raised by Laureates in their Nobel Peace Prize lectures. Every Nobel lecture was analyzed and coded based on themes presented. The five periods were then divided and labeled according to the different norms emphasized in the lectures. Finally, the themes were ranked in each period based on a calculation of the frequency with which norms were discussed in the Nobel lectures during that period. What emerges is a vivid picture of norm evolution since the dawn of the modern age of international law.

Part I focuses on the “Pacifist Period” from 1901 to 1913, denominated as such because it is the period in which the early pacifist movement—which focused on abolishing war and establishing peaceful means to resolve international disputes—garnered a worldwide following. This period is most notable for the emergence of new norms, including norms promoting international arbitration, a permanent international judiciary, the abolition of war, the development and codification of international law, and the creation of an international organization to secure and maintain peace.

Part II, denominated the “Statesman Period,” focuses on the interwar years from 1917 to 1938, in which the most notable Laureates were statesmen directly involved in shaping international law and institutions. Consistent with the role of state actors in fostering the acceptance of norms, these statesman Laureates were instrumental in fostering a tipping point in international relations. During this period, norm cascades occurred favoring the establishment of international institutions, such as the League of Nations, and international norms, such as the unlawfulness of offensive war. New norms also emerged during this period, such as promoting international human rights, providing aid and relief to international refugees, and encouraging closer economic and political cooperation among European nations.

Part III focuses on the postwar years from 1944 to 1959, described as the “Humanitarian Period.” It includes two major categories of norm entrepreneurs: humanitarians and statesmen. International humanitarian law crystallized during this period, and the commitment to global and regional cooperation through international institutions reached a tipping point in international relations. The Laureates during this period promoted important emerging norms regarding the treatment of those vanquished in war. They also fostered postwar recovery through regional integration and established treaties regulating the conduct of war.

Part IV focuses on the “Human Rights Period” from 1960 to 1986, which emphasized the development, implementation, and internalization of international human rights law. This period focused on Laureates who were drafters of human rights treaties, victims of human rights abuse, and inspiring leaders promoting human dignity. Just as international humanitarian law crystallized in the previous period, international human rights law came into its own during the Human Rights Period. International law became increasingly defined by its pursuit of norms protecting the individual from the state.

The fifth and final Part, denominated the “Democracy Period,” focuses on the post-Cold War period since 1987. The defining feature of this period is the recognition of democracy as an indispensable tool to secure international peace and security. The most significant Laureates in this period have been transformational statesmen, pro-democracy dissidents, and democracy advocates, who have promoted this norm in regions where it has struggled to take root.

I. THE PACIFIST PERIOD²⁰ (1901–1913)

The early period of the Nobel Peace Prize was principally focused on realizing the dream of the abolition of war and the pacific settlement of disputes. With two exceptions, Jean Henry Dunant and Theodore Roosevelt, every Laureate from 1901 until 1913 came from the ranks of the organized peace movement.²¹ This movement included two strands of pacifists—populist pacifists and parliamentary pacifists—as well as international jurists.

The populist strand of pacifists sincerely but naively envisioned a future world without war. These pacifists worked through peace congresses to influence popular opinion about the inhumanity of war and the inevitability of perpetual peace. The parliamentary pacifists, on the other hand, were political elites who shared the pacifist vision but were more grounded in political reality. Through parliamentary discourse across national boundaries, these Laureates helped transform the pacifist

20. The Nobel Peace Laureates during this period were Jean Henry Dunant and Frédéric Passy (1901); Elie Ducommun and Charles Albert Gobat (1902); William Randal Cremer (1903); the Institute of International Law (1904); Bertha von Suttner (1905); Theodore Roosevelt (1906); Ernesto Teodoro Moneta and Louis Renault (1907); Klas Pontus Arnoldson and Fredrik Bajer (1908); Auguste Beernaert and Paul Henri d’Estournelles de Constant (1909); the Permanent International Peace Bureau (1910); Tobias Asser and Alfred Fried (1911); Elihu Root (1912); and Henri La Fontaine (1913). No awards were given from 1914 to 1916.

21. Geir Lundestad, *The Nobel Peace Prize*, in *THE NOBEL PRIZE: THE FIRST ONE HUNDRED YEARS* 163, 165–66 (Agneta Wallin Levinovitz & Nils Ringertz eds., 2001).

dreams into serious political debate. Finally, the international jurists participated in the Hague Conferences and offered technical expertise in establishing legal principles for a future world that could be governed by law rather than power.

These three groups all envisioned a critical role for international law in any future world order. All three also agreed that law must be developed to supplant or minimize recourse to war and that alternative peaceful means to resolve disputes must be established. But the three groups differed sharply regarding the prospect of outlawing war and disagreed about the wisdom of developing international humanitarian law to govern the conduct of war.

A. *The Populist Pacifists*

The first group of Laureates in the Pacifist Period was the populist pacifists. These populist pacifists included Elie Ducommun, Charles Albert Gobat, Bertha von Suttner, Klas Arnoldson, Frederik Bajer, and Alfred Fried.²² In terms of international law, the agenda for populist pacifists was fivefold. First, their ultimate ambition was the legal abolishment of war. Second, the interim means to achieve that goal was through international agreement for progressive disarmament. Third, populist pacifists generally resisted laws that attempted to “humanize” war through international humanitarian law, because to enumerate how war was to be conducted was to concede that it was lawful to conduct. Fourth, as a substitute for war, the creation of alternative means to resolve interstate disputes was required, first through international arbitration, then ultimately through the establishment of a compulsory permanent international court. Fifth, many populist pacifists envisioned the establishment of an international world government, such as a federation of Europe or a larger society of nations.

Among the most significant populist pacifists was Baroness Suttner, who famously helped convince Alfred Nobel to include a Peace Prize among the other prizes in his will. Her 1889 bestselling book, *Lay Down Your Arms*, was described by Leo Tolstoy as “the *Uncle Tom’s Cabin* of the Peace Movement”²³ and dramatically popularized the dream of a

22. Some of these Laureates (e.g., Passy, Gobat, Cremer, La Fontaine) also belong in the category of parliamentary pacifists, representing leadership on both the popular and legislative fronts.

23. Irwin Abrams, *Introduction* to BERTHA VON SUTTNER, *LAY DOWN YOUR ARMS: THE AUTOBIOGRAPHY OF MARTHA VON TILLING* 5, 10 (T. Holmes trans., Garland Publishing 1972) (1894).

world without war. It was one of the most successful books of the nineteenth century and did more to introduce to the general public the ideas of pacifism than any other single work.²⁴ It offered a tale of a young woman whose life was wrecked by the brutality of war, and its grim depictions of battle shocked the world and struck a responsive chord.²⁵

Suttner was a Social Darwinist in her confidence about the linear advancement of civilization, boldly proclaiming in her Nobel lecture that the old system of the militarists was “doomed to failure” and that “those who understand the laws of evolution” recognize that “the future will always be one degree better than the past.”²⁶ She was convinced that “[o]nce a new system begins to emerge, the old one must fall The task is already so clearly outlined, and so many are already working on it, that it must sooner or later be accomplished.”²⁷ Indeed, she concluded her pacifist manifesto, *Lay Down Your Arms*, with a battle cry of war on war: “At no time . . . in the history of the world has the cause of peace . . . been more hopeful. It seems that . . . the long night of death and destruction will pass away; . . . we [can] see the first streaks of the dawn of the kingdom of Heaven upon earth.”²⁸

Other populist pacifists shared such evolutionary sentiments. Arnoldson naively thought popular referenda could forestall war, suggesting that if an appeal was made in every nation for every man and woman to sign a petition opposing standing armies and advocating a joint police force, then a “new great power would emerge—the united will of the peoples.”²⁹ He spoke optimistically of a power “emerging from the depths and slowly spreading over land and water. It is the concept of peace of the ancient sagas, enriched by new and immense cultural progress. Those who seek after the lost paradise can see it shimmering in the sunrise of a new era.”³⁰

24. BRIGITTE HAMANN, *BERTHA VON SUTTNER: A LIFE FOR PEACE* 72 (Ann Dubsky trans., 1996) (1986).

25. ARTHUR EYFINGER, *THE 1899 HAGUE PEACE CONFERENCE: THE PARLIAMENT OF MAN, THE FEDERATION OF THE WORLD* 57 (1999).

26. Bertha von Suttner, Nobel Lecture (Apr. 18, 1906), in 1 *NOBEL LECTURES, PEACE 1901–1925*, at 84, 86 (Frederick W. Haberman ed., 1972), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1905/suttner-lecture.html.

27. *Id.* at 86–87.

28. SUTTNER, *supra* note 23, at 425.

29. Klas Arnoldson, Nobel Lecture (Dec. 10, 1908), in 1 *NOBEL LECTURES, PEACE 1901–1925*, *supra* note 26, at 175, 181, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1908/arnoldson-lecture.html.

30. *Id.* at 184.

It is from this confidence in the evolution of civilization that the populist pacifists espoused the position of the complete abolition of war. Gobat openly embraced utopian visions: “I am not one of those who laugh[s] at utopias. The utopia of today can become the reality of tomorrow. Utopias are conceived by optimistic logic which regards constant social and political progress as the ultimate goal of human endeavor.”³¹ This abolitionist vision is what most sharply distinguishes the populist pacifists from all other Laureates.

Unfortunately, their extreme position on the abolition of war overshadows their more moderate and effective positions promoting the international rule of law. Bajer nicely outlined the agenda of populist pacifists when he argued that, in order to combat belligerence, pacifists should actively engage in *pacigérance*, or the waging of peace:

What I have called “*pacigérance*” is clearly part of the larger struggle for civilization which is progressing on an increasingly broad front: it is civilization’s battle between rule by law and rule by power. . . . Pacifists should stress more and more that it is the rule of law for which they are fighting.³²

Fried was of similar persuasion, arguing that “the foundation of the peace movement should be the legal and political *organization* of international life.”³³ Without exception, every populist pacifist Laureate was a strong advocate of arbitration as a mechanism to resolve interstate conflicts. Ducommun, Laureate in 1902, put it succinctly:

Granted that war is an evil, what can you find to put in its place when an amicable solution becomes impossible? The treaties of arbitration concluded in the past few years provide an answer to this question by showing with what ease, given goodwill on both sides, international disputes can be ironed out and eliminated as cruel preoccupations of our times.³⁴

31. Albert Gobat, Nobel Lecture (July 18, 1906), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 30, 37, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1902/gobat-lecture.html.

32. Frederick Bajer, Nobel Lecture (May 18, 1909), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 190, 203, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1908/bajer-lecture.html.

33. Jøgen Løvland, Nobel Committee Chairman, Presentation Speech (Dec. 10, 1911), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 238, 238–39, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1911/press.html.

34. Elie Ducommun, Nobel Lecture (May 16, 1904), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 17, 25–26, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1902/ducommun-lecture.html.

Likewise, Arnoldson also supported alternative means for dispute settlement; he was convinced that “no subject of international disagreement would lead to war if it were first submitted to examination by experts.”³⁵ But here too the populist pacifists exhibited absolutist tendencies, arguing the arbitration should be compulsory rather than optional.³⁶ If arbitration was to supplant war, then it made little sense for nations to commit to the option, rather than the obligation, of peaceful settlement of disputes.

While populist pacifists were in common cause with other early Laureates on the peaceful settlement of disputes, they took distinctly absolutist positions on regulating the conduct of war.³⁷ Because they sought to codify peace not war, they remained strongly opposed to the development of international humanitarian law.³⁸ As Suttner stated, “[T]he question of the humanization of war . . . cannot interest me. Saint George rode forth to kill the dragon, not merely to trim its claws.”³⁹ She argued that a convention to enfranchise slaves would never debate how many times a slave could be struck; nor would the movement to abolish torture argue about whether the oil in a victim’s ears should be heated to thirty degrees instead of the boiling point.⁴⁰

In a similar vein, Fried argued that a “law of war” was an oxymoron:

The pacifist doctrine has always been that force cannot be legalized War suspends all the laws of morality, it sets aside the laws of society, and restores the primitive condition of unrestricted lawlessness. At such a time there cannot be order. *A condition of anarchy may be completely done away with, but it cannot be regulated.*⁴¹

The populist pacifists feared that those who seek to humanize war would drive a wedge within the organized peace movement and fracture the work of peace.⁴² But in taking this absolutist position regarding the end of war, these populist pacifists sacrificed their moral authority to help influence the regulation of the means of war.

35. Arnoldson, *supra* note 29, at 179.

36. See, e.g., Gobat, *supra* note 31, at 36.

37. EYFFINGER, *supra* note 25, at 56.

38. See BERTHA VON SUTTNER, *THE RECORDS OF AN EVENTFUL LIFE* 278 (1910).

39. *Id.*

40. *Id.* at 286.

41. ALFRED H. FRIED, *THE RESTORATION OF EUROPE 67–68* (Lewis Stiles Gannett trans., 1917) (1916).

42. See SUTTNER, *supra* note 38, at 286.

B. *The Parliamentary Pacifists*

The second category of early Laureates was the parliamentary pacifists. They were among the most influential leaders of the early organized peace movement, translating the dreams and visions of the populist pacifists into achievable political reality. As pacifists, their focus was as much on what could be done as what should be done. Many of the leaders of the Hague Peace Conferences are represented in this category, including Frédéric Passy, Charles Albert Gobat, William Randal Cremer, and Frederik Bajer.

In terms of international law, parliamentary pacifists were most notable for effectively promoting international arbitration and a permanent international judiciary. A leader of this movement was Cremer, who devoted his life to the international arbitration cause. Successful arbitration of the *Alabama* claims in 1872 convinced Cremer that international arbitration was a model that could be applied to settle disputes peacefully between civilized nations.⁴³ As a British Member of Parliament, he successfully pushed for bilateral arbitration treaties between Great Britain and other nations, and by 1908 there was a patchwork of over sixty such treaties signed between almost two dozen countries.⁴⁴ Cremer was never utopian in his vision of the future for interstate arbitration, recognizing that “[i]t may be that for a long time some nations will continue to fight each other, but the example of those nations who prefer arbitration to war, law courts to the battlefield, must sooner or later influence the belligerent powers.”⁴⁵

The great push for international arbitration had two major consequences. First, it drew together like-minded parliamentarians from different countries to work together to promote peaceful settlement of disputes. This led to the establishment of the Inter-Parliamentary Union, which in turn influenced the convening of the Hague Peace Conferences of 1899 and 1907. Second, the impetus for international arbitration was transformed quickly into a vision of a permanent international judiciary, starting with the Permanent Court of Arbitration and eventually extending to the Permanent Court of International Justice and the International Court of Justice.

43. See HOWARD EVANS, *SIR RANDAL CREMER: HIS LIFE AND WORK* 74–81 (Garland Publishing 1973) (1909); Randal Cremer, Nobel Lecture (Jan. 15, 1905), in 1 *NOBEL LECTURES, PEACE 1901–1925*, *supra* note 26, at 46, 48, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1903/cremer-lecture.html.

44. EVANS, *supra* note 43, at 326–27.

45. Cremer, *supra* note 43, at 53.

There is a direct link between the work of these parliamentary pacifists and the Hague Peace Conferences of 1899 and 1907. The informal efforts for interparliamentary dialogue began in earnest in 1888 when Passy, Gobat, Cremer, and Bajer, among others, met with almost one hundred representatives from six countries to discuss the promotion of bilateral arbitration treaties.⁴⁶ A subsequent interparliamentary conference in London in 1890 included parliamentarians from twelve countries with two hundred representatives.⁴⁷ Subsequent meetings were held in Rome, The Hague, Brussels, Budapest, Christiana, Paris, Vienna, and St. Louis.⁴⁸

Count Basili from Russia attended the 1896 Budapest meeting and was impressed by the work achieved at that conference.⁴⁹ Every parliament in Europe was represented at this conference, save one, and a resolution was adopted calling for the convocation of a diplomatic conference to constitute a permanent court of arbitration.⁵⁰ Count Basili's report to Czar Nicholas II regarding the Budapest conference was an influential factor in the czar's subsequent call for the Hague Peace Conference of 1899.⁵¹ Thus, the momentum in favor of international arbitration spawned a movement of interparliamentary dialogue, leading to the creation of a formal international body of pacific-minded legislative leaders, which in turn influenced the convening of the famous Hague Peace Conferences.

When these parliamentarians met in 1899 for the first Hague Peace Conference, international arbitration was a central item on the agenda.

The First Hague Peace Conference of 1899 marks nothing less than the acceptance of arbitration as an institution. . . . It was well understood by all participants that the outcome of the debate on arbitration was to mark the progress of the law and the role of internationalism in society in the next decade. . . . In the years following the Conference, the number of arbitration treaties would literally explode, while the newly established [Permanent] Court [of Arbitration] would operate with fair success. . . . [T]he legal arrangements agreed upon in 1899 and 1907 . . . prepared

46. EVANS, *supra* note 43, at 136–37; Verdiana Grossi, *Frédéric Passy: Economic Liberalism in the Service of Peace (1822–1912)*, 74 INTER-PARLIAMENTARY BULL. 11, 23 (1994).

47. EVANS, *supra* note 43, at 134–49.

48. Naomi Churgin Miller, *Introduction* to EVANS, *supra* note 43, at 5, 15.

49. EVANS, *supra* note 43, at 178–80. For details on the work of the 1896 Budapest conference, see RAINER SANTI, 100 YEARS OF PEACE MAKING 16 (1991).

50. EVANS, *supra* note 43, at 176–77.

51. *Id.* at 178–80; EYFFINGER, *supra* note 25, at 23.

the world for the era of the League of Nations.⁵²

Like the populist pacifists, the parliamentary pacifists all envisioned arbitration as the great alternative to armed conflict. All hope was directed during the Hague Conference at the efficacy of binding arbitration among states. Many of these Laureates had pushed at the Hague Conference for arbitration to be compulsory, but they were unsuccessful in that quest.⁵³ Nonetheless, the establishment of an optional means of peacefully resolving disputes through a permanent international body was one of the great accomplishments of the first Hague Peace Conference.⁵⁴ Elihu Root, Laureate in 1912, stated that the first Hague Conference “demonstrated [that] for the first time in . . . history . . . a congress of the world’s powers convened . . . to consider . . . the application of . . . general . . . principles of justice and humanity under all circumstances and to all international questions.”⁵⁵

The creation of the Permanent Court of Arbitration in 1899 paved the path for a more permanent international judicial institution. While the Permanent Court of Arbitration was, strictly speaking, neither permanent nor a court, it established the viability of a method for the peaceful settlement for disputes through a roster of arbitrators that could be employed in the event an international dispute arose.⁵⁶ The subject of a permanent world court was now viewed as a distinct possibility, with eminent politicians and international legal scholars joining the ranks of parliamentary pacifists calling for the establishment of a permanent judiciary.

C. *The International Jurists*

The third major category of Laureates in the Pacifist Period was international jurists working for the development and codification of the rule of law in international relations. These international jurists included

52. EYFFINGER, *supra* note 25, at 359–61.

53. See Nadine Lubelski-Bernard, *The Institute of International Law, Auguste Beernaert and Henri La Fontaine*, in *THE NOBEL PEACE PRIZE AND THE LAUREATES: THE MEANING AND ACCEPTANCE OF THE NOBEL PEACE PRIZE IN THE PRIZE WINNERS’ COUNTRIES* 109, 118 (Karl Holl & Anne C. Kjelling eds., 1994).

54. For the results of the First Hague Conference, see *Convention between the United States and Certain Powers for the Pacific Settlement of International Disputes* arts. 15–27, July 29, 1899, 32 Stat. 1779, T.I.A.S. No. 392 [hereinafter 1899 Hague Convention].

55. Elihu Root, *Address in Opening the National Arbitration and Peace Congress* (Apr. 15, 1907), in *ADDRESSES ON INTERNATIONAL SUBJECTS BY ELIHU ROOT* 129, 136 (Robert Bacon & James Brown Scott eds., Books for Libraries Press 1969) (1916).

56. See 1899 Hague Convention, *supra* note 54, arts. 20–29.

the Institute of International Law, Louis Renault, Auguste Beernaert, Tobias Asser, Elihu Root, and Henri La Fontaine.

The great contribution of these international jurists was with respect to their leadership in promoting international arbitration in the Inter-Parliamentary Union and at the Hague Peace Conferences. La Fontaine, a prominent scholar of international arbitration and leader of the parliamentary pacifists, published a seminal treatise on the history of international arbitration from 1794 to 1900.⁵⁷ Asser, Beernaert, and Renault were all leading lights in the negotiations at the first Hague Peace Conference, with Asser and Beernaert the principal negotiators of arbitration and arms limitation provisions, respectively, and Renault the key draftsman in the Final Act of the conference.⁵⁸

But these Laureates were far more significant than simply as promoters of international arbitration. They also recognized that recourse to peaceful settlement of disputes presumes a legal basis for the resolution of those disputes. As such, international law is a key component to an international order governed by rules instead of power. These international jurists in particular recognized that arbitration is simply a procedural step toward the path of peaceful relations, and that substantive rules were vital to resolve competing claims in international conflicts.

Georg Hagerup's Nobel lecture on behalf of the Institute of International Law was one of the most eloquent attempts to draw the connection between the development of international law and the peaceful settlement of disputes:

[W]e cannot hope to achieve peace until law and justice regulate international as well as national relations. . . . [T]he truly pacifist movement has no more dangerous enemies than those who . . . try to persuade people to tackle the lofty summit of universal peace by a sort of "flight of Icarus" Some people are convinced that universal compulsory arbitration in international relations is such an aircraft, just the one to carry us safely into the reign of perpetual peace. . . . [T]his is a fatal misconception [Arbitration] is a means of resolving questions of *law*. . . . [T]he advance of international law is the basis necessary to all efforts

57. H. LA FONTAINE, *PASICRISIE INTERNATIONALE 1794–1900* (Kluwer Law International 1997) (1902).

58. See IRWIN ABRAMS, *THE NOBEL PEACE PRIZE AND THE LAUREATES: AN ILLUSTRATED BIOGRAPHICAL HISTORY 1901–2001*, at 63, 72, 78 (2001); EYFFINGER, *supra* note 25, at 132–34, 168–69.

for peace and justice in international relations.⁵⁹

Likewise, Root's Nobel lecture in 1914 is perhaps the high-water mark in the history of the Nobel Peace Prize for articulating the critical importance of international law to the maintenance of peace. Root's lecture identifies several advances toward reducing and preventing the causes of war, including the development of international law and the means for the peaceful settlement of disputes.

Where there is no law, a submission to arbitration or to judicial decision is an appeal, not to the rule of law, but to the unknown opinions or predilections of the men who happen to be selected to decide. The development of the peaceable settlement of international disputes by the decision of impartial tribunals waits therefore upon the further development of international law by a more complete establishment of the known and accepted rules for the government of international conduct.⁶⁰

Thus, these early international jurists highlighted the connection between peaceful resolution of disputes and the development of the corpus of international law. In the words of Renault, peace requires "the progressive development of the concept of law in the relations between peoples, in short the juridical organization of international life."⁶¹ From the Pacifist Period forward, Laureates have underscored the importance of international law in their Nobel lectures, although never in the fulsome detail outlined in the lectures of the Pacifist Period.

D. Norm Evolution in the Pacifist Period

Regarding the Pacifist Period, it is clear that certain international norms were emerging and cascading. The following topics are the top themes presented in the Nobel lectures during the Pacifist Period:

1. International Arbitration (100%)
2. Development and Codification of International Law (82%)

59. Georg Francis Hagerup, Nobel Lecture on behalf of the Institute of International Law (Aug. 24, 1912), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 64, 67–68, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1904/international-law-lecture.html.

60. Elihu Root, Nobel Lecture (Sept. 8, 1913), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 247, 253, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1912/root-lecture.html.

61. Louis Renault, Nobel Lecture (May 18, 1908), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 143, 145, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1907/renault-lecture.html.

- 2. Permanent International Judiciary (82%)
- 4. Hague Peace Conferences (73%)
- 5. International Governmental Organizations (55%)
- 5. The Role of Public Opinion (55%)
- 7. International Treaties (45%)
- 7. Nationalism/Patriotism (45%)
- 7. Pacifism/International Peace Movement (45%)
- 7. World Government (45%)

Thus, as this empirical analysis suggests, there were numerous examples of emerging norms in the Pacifist Period. These norms included: (1) recourse to international arbitration to resolve interstate disputes; (2) the development and codification of international law; (3) the establishment of a permanent international judiciary to resolve disputes; and (4) pacifism and the abolition of war. Of these norms, at least two arguably reached the stage of norm cascades during the Pacifist Period: recourse to noncompulsory international arbitration to resolve disputes and the development and codification of international law as a priority for the organization of international relations.

II. THE STATESMAN PERIOD⁶² (1917–1938)

The second stage in the history of the Nobel Peace Prize is the Statesman Period, spanning from 1917 to 1938. In terms of international law, these Laureates were dramatically different from the Laureates during the Pacifist Period. Four major changes were evident during the Statesman Period. First, statesmen directly involved in shaping international law through political diplomacy were the most notable Laureates during this period. This ascendancy of national statesmen was coupled with the demise of international jurists as Laureates. Second, the type of pacifists that were so notable during the Pacifist Period were virtually absent in the Statesman Period. Those pacifists who did receive recognition were far less utopian in their aspirations. Third, humanitarian efforts became an important focus of the Nobel Peace Prize. Finally, for

62. The Nobel Peace Laureates during this period were the International Committee of the Red Cross (1917); Woodrow Wilson (1919); Léon Bourgeois (1920); Hjalmar Branting and Christian Lange (1921); Fridtjof Nansen (1922); Sir Austen Chamberlain and Charles Dawes (1925); Aristide Briand and Gustav Stresemann (1926); Ferdinand Buisson and Ludwig Quidde (1927); Frank Kellogg (1929); Nathan Söderblom (1930); Jane Addams and Nicholas Murray Butler (1931); Sir Norman Angell (1933); Arthur Henderson (1934); Carl von Ossietzky (1935); Carlos Saavedra Lamas (1936); Robert Cecil (1937); and the Nansen International Office for Refugees (1938). No awards were given for the years 1918, 1923, 1924, 1928, and 1932.

the first time the Nobel Committee identified a political dissident as a worthy symbol of recognition, foreshadowing future Laureates who were political dissidents.

A. *The Virtuous Statesmen*

Only one of the twenty Laureates during the Pacifist Period was a prominent statesman. That Laureate, Theodore Roosevelt, received the award in 1906 in recognition of his efforts to mediate peace between Japan and Russia, leading to the 1905 Treaty of Portsmouth. His Nobel lecture echoed many of the same themes—including international arbitration and the establishment of a permanent international judiciary—as that of the other Laureates during the Pacifist Period.⁶³ But it was also unusual in that it went further and anticipated the formation of a “League of Peace” that he said would be a “masterstroke” of the “great powers honestly bent on peace” for maintaining peace among nations.⁶⁴ Roosevelt thus foreshadowed the League of Nations and the recognition of Laureate statesmen for their efforts to build the international infrastructure and use practical politics to promote international peace.

The subsequent Statesman Period marked a major shift, with prominent statesmen taking center stage as Laureates. These leaders, including Léon Bourgeois, Woodrow Wilson, Charles Dawes, Sir Austen Chamberlain, Aristide Briand, Gustav Stresemann, Frank Kellogg, and Robert Cecil, embraced an Aristotelian sense of virtue ethics, anxious to produce a certain moral character in international relations, namely the disposition to virtue and the performance of virtuous acts.⁶⁵ They envisioned habituating peace by imposing international laws that prohibit war and establishing international institutions that oppose militarism. The simple act of outlawing offensive war would, they hoped, undermine its legitimacy, and thereby change the social meaning of waging war for political and military elites.⁶⁶ If such conduct was no longer legitimate, then honorable statesmen would avoid the stigma of leading their country into war without just cause.

At least eight of the twenty-one Laureates during this period were statesmen. Two of these Laureates, Bourgeois and Wilson, received

63. See Theodore Roosevelt, Nobel Lecture (May 5, 1910), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 102, 104, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1906/roosevelt-lecture.html.

64. *Id.* at 105.

65. See THE ETHICS OF ARISTOTLE 31 (J.A.K. Thomson ed., 1953).

66. Cf. Lawrence Lessig, *The Regulation of Social Meaning*, 62 U. CHI. L. REV. 943 (1995) (detailing the effect of changing social norms in various other contexts).

their awards at the dawn of the League of Nations. These statesmen laid the foundation for structuring international relations based on a vision of an international legal regime, a vision that survived the collapse of the League of Nations.

Bourgeois was the most significant Laureate representing a bridge between the Pacifist and Statesman Periods. “No historian . . . can speak of the two Peace Conferences at The Hague, or of the creation and conduct of the League of Nations at Geneva, without referring to the great and noble part which M. Bourgeois played in . . . advanc[ing] the cause of international peace.”⁶⁷ Bourgeois was head of the French delegation to the Hague Peace Conference of 1899. He also was the first president of the Council of the League and presided over the committee that established the Permanent Court of International Justice.⁶⁸

Bourgeois also represents one of the few international jurists to ever receive the Nobel Peace Prize following the Pacifist Period. In his Nobel lecture, he emphasized that international law had developed from something that was purely theoretical to a system that by 1920 contained the essential ingredients of a well-defined, codified, and binding judicial order.⁶⁹ His view of international law was that “[b]y its absolute impartiality and its authoritative evidence” it would “appease passions, disarm ill will, discourage illusory ambitions, and create that climate of confidence and calm in which the delicate flower of peace can live and grow.”⁷⁰

If Bourgeois represented the bridge to the past, Wilson represented the link to the future. Like Bourgeois, he was awarded the prize in recognition of his central role in establishing the League of Nations.⁷¹ But he also was honored for his theory of international relations, which in his celebrated Fourteen Points brought forward a “design for a fundamental law of humanity into present-day international politics.”⁷² The Fourteen Points included a call for open and transparent international treaties and a “general association of nations” established to provide

67. James Brown Scott, *Léon Bourgeois, 1851–1925*, 19 AM. J. INT’L L. 774, 774 (1925).

68. ABRAMS, *supra* note 58, at 94–96.

69. Léon Bourgeois, Nobel Lecture (Dec. 1922), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 306, 312, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1920/bourgeois-lecture.html.

70. *Id.*

71. ABRAMS, *supra* note 58, at 87.

72. Anders Johnsen Buen, President of Norwegian Parliament, Presentation Speech for Nobel Laureate Woodrow Wilson (Dec. 10, 1920), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 293, 293, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1919/speech.html.

“mutual guarantees of political independence and territorial integrity to great and small states alike.”⁷³ Wilson expressed great optimism in his 1920 Nobel lecture,⁷⁴ stating that while the work for peace is a continuing labor, “whatever has been accomplished in the past is petty compared to the glory and promise of the future.”⁷⁵

Almost immediately after the initial enthusiasm for the League of Nations, clouds appeared on the horizon. It quickly became apparent that implementing the strict reparations regime in the Treaty of Versailles was creating severe postwar tensions in Europe. So while the awards to Bourgeois and Wilson recognized the best that the Treaty of Versailles had to offer, the award to U.S. Vice President Dawes honored successful diplomatic efforts to mitigate the financial hardship imposed by Versailles. The award to Dawes honored the international committee of financial experts who devised the 1924 plan for rescheduling German war debt, temporarily reducing tensions in Europe following Germany’s default on its war reparations payments. Recognition of the Dawes Plan was a concession that the international obligations imposed by Versailles were unworkable.

Even before the ink was dry on the Dawes Plan, it was clear that it simply forestalled a future confrontation over German reparations.⁷⁶ In attempting to mitigate the financial hardships of the Treaty of Versailles, many feared that the plan would “be held responsible for all the hardships which must be endured in the future. . . . [T]here will be many who will say that it is the [Dawes] plan and not the Treaty [of Versailles] . . . that ha[s] caused the difficulties which are likely to present themselves.”⁷⁷ Indeed, the same year that the Dawes Plan took effect, Adolf Hitler wrote in *Mein Kampf* of how the “shameless and monstrous word ‘reparations’ was able to make itself at home in Ger-

73. Woodrow Wilson, President of the United States, Address on the Fourteen Points of Peace at a Joint Session of the Two Houses of Congress (Jan. 8, 1918), available at <http://www12.dataformat.com/PDF/D04373.pdf>.

74. Wilson was unable to deliver a lecture, but sent a short acceptance speech that was delivered by the U.S. Minister in Oslo, Albert G. Schmedeman. See *Wilson Accepts the Nobel Award*, N.Y. TIMES, Dec. 11, 1920, at A11.

75. Albert G. Schmedeman, Nobel Acceptance Speech on behalf of Woodrow Wilson (Dec. 10, 1920), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 294, 295, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1919/wilson-acceptance.html.

76. See, e.g., Allyn Abbot Young, *Economics Defeats Politics in Europe*, N.Y. TIMES, Aug. 24, 1924, at XX1.

77. RUFUS C. DAWES, THE DAWES PLAN IN THE MAKING 281 (1925); see also BRUCE KENT, THE SPOILS OF WAR 373 (1989).

many.”⁷⁸ Hitler built his early reputation railing against the grave injustices the war reparations scheme imposed on the German people.

During the brief interim between the successful rescheduling of German war debt in 1924 and the rise of Hitler in the early 1930s, the world experienced the golden days of the League of Nations. It was during this period that some of the most productive work promoting international law occurred, first with the Locarno Pact and then the Kellogg-Briand Pact. Laureates Chamberlain, Briand, and Stresemann promoted regional peace through the treaties of mutual nonaggression commonly and collectively referred to as the Locarno Pact, the “most constructive diplomatic achievement of the inter-war years.”⁷⁹ While each Laureate envisioned a unified Europe differently, they shared a common recognition that cooperation among the great powers, including legal commitments of nonaggression, was necessary to avoid the bloody mistakes of the recent past. As Chamberlain put it in his memoirs, their shared vision was that from “the blood-soaked ruins of the past” they would seek to “raise a new temple of peace.”⁸⁰

Signed in 1925, the Locarno Pact “brought Western Europe the first tranquility its war-weary, strife-ridden people had known in a generation.”⁸¹ In this pact, each country pledged not to attack or invade one another, to resolve disputes peacefully, and to demilitarize disputed territories in the Rhineland.⁸² Just six years after the Treaty of Versailles, the major powers met together in Locarno “not as victors and vanquished but as equals.”⁸³ According to one first-hand account, when the Pact was presented to the crowds in Locarno on October 16, 1925:

Jubilation broke out as if a new gospel had been proclaimed. People embraced each other, some of them even wept—no more conflicts—no more wars—no more victors and vanquished—the world was becoming one great family of friends and brethren! . . . Henceforward the name of that little city on the beautiful lake

78. ADOLF HITLER, *MEIN KAMPF* 468 (Ralph Manheim trans., Houghton Mifflin 1999) (1927).

79. DAVID DUTTON, *AUSTEN CHAMBERLAIN: GENTLEMAN IN POLITICS* 230 (1985). For a history of the Locarno Pact, see ROBERT H. FERRELL, *PEACE IN THEIR TIME: THE ORIGINS OF THE KELLOGG-BRIAND PACT* (1952); BRADLEY F. SMITH, *REACHING JUDGMENT AT NUREMBERG* 155–56 (1977).

80. AUSTEN CHAMBERLAIN, *DOWN THE YEARS* 188 (5th ed. 1935).

81. WILLIAM L. SHIRER, *THE RISE AND FALL OF THE THIRD REICH: A HISTORY OF NAZI GERMANY* 136 (1960).

82. See Treaty of Mutual Guarantee, Final Protocol of Locarno Conference arts. 1–3, Oct. 16, 1925, 54 L.N.T.S. 291, 293.

83. CHAMBERLAIN, *supra* note 80, at 174.

was to be not merely the designation of a town, but a new conception of the unity and friendship of mankind.⁸⁴

Of course it was not to be. Although repudiated by Hitler in the 1930s, the “Locarno era” of the late 1920s represented the golden days of the League of Nations, a brief “Sabbath in the life of nations.”⁸⁵ It was the period of disjunction between the problems of the past and the hopes for the future. At the time, Briand and Stresemann both believed that closer economic and political ties among European nations would naturally follow from Locarno.⁸⁶ Briand expressed the spirit of Locarno best when he prophesied the end of war between Germany and France: “[N]o more wars, no more brutal, violent, bloody ways of settling our differences Henceforward it will be the judge who will pronounce justice. Away with rifles, machine-guns, cannons! [Make r]oom for conciliation, arbitration, and peace!”⁸⁷

In the end, although Chamberlain, Briand, and Stresemann were all men of good will who envisioned a world of mutual cooperation, “their good intentions could not efface the antagonism which existed between Germany and the West” during the interwar period.⁸⁸ Despite the fact that the Locarno era did not prove long lasting, it remains influential today for setting the stage for one of the most momentous developments in the history of international law: the Kellogg-Briand Pact of 1928.⁸⁹

The Kellogg-Briand Pact famously provided that the “High Contracting Parties solemnly . . . condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.”⁹⁰ The pact to outlaw war was originally signed by fifteen nations and eventually by sixty-four nations, representing every major power in the world. At the signing ceremony, Briand underscored the legal ramifications of the Kellogg-Briand Pact:

For the first time, by a ceremonial act before all the world, the

84. EDGAR STERN-RUBARTH, *THREE MEN TRIED* 98–99 (1939).

85. FERRELL, *supra* note 79, at 48–49.

86. CHAMBERLAIN, *supra* note 80, at 177, 183.

87. STERN-RUBARTH, *supra* note 84, at 117.

88. JON JACOBSON, *LOCARNO DIPLOMACY: GERMANY AND THE WEST 1925–1929*, at 388 (1972).

89. General Treaty for Renunciation of War as an Instrument of National Policy arts. I–II, Aug. 27, 1928, 46 Stat. 2343, 94 L.N.T.S. 57 [hereinafter Kellogg-Briand Pact]. *See generally* FERRELL, *supra* note 79, at 45–51; Matthew Lippman, *The History, Development, and Decline of Crimes Against Peace*, 36 GEO. WASH. INT’L L. REV. 957, 975–76 (2004); Norman Silber & Geoffrey Miller, *Toward “Neutral Principles” in the Law: Selections From the Oral History of Herbert Weschler*, 93 COLUM. L. REV. 854, 894–95 nn.110–11 (1993).

90. Kellogg-Briand Pact, *supra* note 89, art. I.

honour of the great nations . . . is engaged, without reservations, to outlaw war as an instrument of national policy War, formerly considered as an attribute of divine right, and continuing to live in international ethics as a privilege of sovereignty, is at last by law deprived of that which constitutes its greatest danger: its legitimacy. . . . Freed from such a serfdom, the peoples who adhere to the new treaty will soon become accustomed to the idea that national prestige, national interest, is no longer connected with the conception of violence.⁹¹

In one sense, the Kellogg-Briand Pact was an utter failure in that it failed to curb the outbreak of the most destructive war in human history, despite the fact that every major belligerent was a signatory.⁹² These belligerents “destroyed the tender plant of humanism, the seed of which had been planted at Locarno.”⁹³

But taking a longer view, Locarno and Kellogg-Briand were the genesis of an emergent international norm outlawing aggressive war.⁹⁴ They reflected a “new trend in thinking about the hitherto unrestricted sovereign right of states to wage war.”⁹⁵ This emerging norm against waging war eventually found expression in the Nuremberg Tribunal judgments,⁹⁶ in the UN Charter,⁹⁷ and in the Rome Statute of the International Criminal Court (ICC).⁹⁸ Today, it is said that “no principle of international law has been more firmly established—first by the Kellogg-Briand Pact and, particularly since 1945, by the UN Charter—than that states ‘shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.’”⁹⁹ As Briand had hoped in 1928, offensive war lost its legal

91. STERN-RUBARTH, *supra* note 84, at 161.

92. See Michael J. Glennon, *How International Rules Die*, 93 GEO. L.J. 939, 956 (2005); Eric Posner, *International Law and the Disaggregated State*, 32 FLA. ST. U. L. REV. 797, 831 (2005).

93. STERN-RUBARTH, *supra* note 84, at 300.

94. See THOMAS M. FRANCK, FAIRNESS IN INTERNATIONAL LAW AND INSTITUTIONS 258 (1995); Jonathan Bush, *The Binding of Gulliver: Congress and Courts in an Era of Presidential Warmaking*, 80 VA. L. REV. 1723, 1760 (1994).

95. FRANCK, *supra* note 94, at 258.

96. See Charter of the International Military Tribunal art. 6(a), Aug. 8, 1945, 59 Stat. 1546, 1547, 82 U.N.T.S. 279.

97. See U.N. Charter art. 1.

98. See Rome Statute of the International Criminal Court art. 5, July 1, 2002, 2187 U.N.T.S. 90 [hereinafter Rome Statute]; see also FRANCK, *supra* note 94, at 259, 261–62; Robert J. Delahunty, *Paper Charter: Self-Defense and the Failure of the United Nations Collective Security System*, 56 CATH. U. L. REV. 871, 897 (2007); Yoram Dinstein, *Comments on War*, 27 HARV. J.L. & PUB. POL’Y 877, 880 (2004).

99. Thomas M. Franck, *The Emerging Right to Democratic Self-Governance*, 86 AM. J. INT’L

legitimacy. The modern understanding of *jus ad bellum* emerged to a large measure through the work of these Laureates.

Both Kellogg and Briand were recognized by the Nobel Committee for their work on behalf of this treaty to outlaw war.¹⁰⁰ The Nobel Committee extolled Briand and Kellogg for their “common action” in seeing “all the world’s might united in advancing this great cause” through a “pact that today binds together almost all civilized nations in the world.”¹⁰¹ While fully recognizing that a “long road remains to be traveled between the signing of the pact and its fulfillment in spirit and in action,” the Nobel Committee nonetheless honored Kellogg and Briand for a new vision that inverted an old maxim: “*Si vis pacem, para pacem.*”¹⁰² The edifice of the future UN Charter was built from the simple blueprints drawn in the Kellogg-Briand Pact.¹⁰³

The final statesman Laureate in this period, Viscount Cecil of Chelwood, was recognized in 1937 for his “Sisyphus”-like exertion¹⁰⁴ to save the League of Nations even as its imminent demise was apparent. Cecil was second only to Wilson as an architect of the League of Nations.¹⁰⁵ But by the time he won the prize in 1937, he could only view the League of Nations with utter pessimism. Cecil struck a depressing tone in his Nobel lecture on June 1, 1938, stating that failures of the League of Nations on one matter (such as Japan’s invasion of China) adversely affected the conduct of other international affairs (such as Italy’s invasion of Abyssinia and Germany’s invasion of Austria).¹⁰⁶ The

L. 46, 87 (1992) (quoting U.N. Charter art. 2, para. 4); see also IAN BROWNLIE, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES 110 (1963).

100. Briand received the Nobel Peace Prize in 1926 for his efforts with regard to the Locarno Pact, but he was recognized by the Nobel Committee during the Presentation Speech to Kellogg for his contributions to the Kellogg-Brand Pact. See Johan Ludwig Mowinckel, Nobel Committee Member, Presentation Speech for Nobel Laureate Frank Kellogg (Dec. 10, 1930), in 2 NOBEL LECTURES, PEACE 1926–1950, at 73, 75 (Frederick W. Haberman ed., 1972), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1929/press.html.

101. *Id.* at 74–75.

102. Literally: “If you seek peace, prepare for peace.” See *id.* at 76.

103. FRANCK, *supra* note 94, at 259.

104. Christian Lous Lange, Nobel Committee Member, Presentation Speech for Nobel Laureate Robert Cecil (Dec. 10, 1937), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 235, 244–45, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1937/press.html.

105. Martin Caedel, *Sir Norman Angell and Viscount Cecil of Chelwood*, in THE NOBEL PEACE PRIZE AND THE LAUREATES: THE MEANING AND ACCEPTANCE OF THE NOBEL PEACE PRIZE IN THE PRIZE WINNERS’ COUNTRIES, *supra* note 53, at 193, 198.

106. Robert Cecil, Nobel Lecture (June 1, 1938), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 246, 251–52, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1937/chelwood-lecture.html.

most optimistic assessment he could make was that human events are naturally undulatory, in which “the crest of the wave is followed by the trough.”¹⁰⁷ Present at the League of Nations’ creation, Cecil also eulogized it at its death. His famous words at the final meeting of the League in Geneva in 1946 were, “The League is dead; long live the United Nations!”¹⁰⁸

B. *The Establishment Pacifists*

The First World War dramatically dampened the enthusiasm of the early pacifists. Their utopian hopes for the abolition of war were crushed in a matter of months. Social Darwinism, with its blind confidence in the linear progression of society marching inexorably toward the dawn of a world without war and so prevalent among the early populist pacifists, was now the subject of open ridicule.

Norman Angell, Laureate in 1933, derided the sentimental peace advocate who sought “altruism” in the relations between nations, admitting that “successful war may be to the interest . . . of the victorious party.”¹⁰⁹ He argued that the “workaday world . . . come[s] to look upon the peace ideal as a counsel of perfection, which may one day be attained, . . . but not while human nature remains what it is.”¹¹⁰

The old populist pacifism of Suttner was replaced by a new establishment pacifism that was far more material, economical, scientific, and practical in its orientation. The focus of these new pacifists was on the futility of war rather than its inhumanity. These establishment pacifists included Christian Lange, Ludwig Quidde, Nathan Söderblom, Nicholas Murray Butler, and Norman Angell.¹¹¹

Butler, the President of Columbia University, was a quintessential establishment pacifist. Like Root before him,¹¹² Butler distrusted sentimental peace propaganda, had little faith in public opinion, and re-

107. *Id.* at 252.

108. Frederick W. Haberman, Biography of Robert Cecil, in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 260, 262, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1937/chelwood-bio.html.

109. NORMAN ANGELL, THE GREAT ILLUSION 7 (3d ed. 1910).

110. *Id.*

111. The one exception was the Nobel Peace Prize awarded to Jane Addams in 1931. Her activities as President of the Women’s International League for Peace and Freedom, together with her staunch opposition to the First World War is reminiscent of the populist pacifists of the Pacifist Period. ABRAMS, *supra* note 58, at 122–24; JUDITH HICKS STIEHM, CHAMPIONS FOR PEACE: WOMEN WINNERS OF THE NOBEL PEACE PRIZE 21–39 (2006).

112. See *supra* notes 55–60 and accompanying text.

cruited peace advocates from the pillars of society.¹¹³ In his view, “[w]hat was needed was . . . the proper instruction of the masses by an enlightened elite, who would preside over a gradual evolution toward peace through the advance of judicial settlement of international disputes and the extension of international law.”¹¹⁴

To appreciate the difference between the old populist pacifists and the new establishment pacifists, consider the 1927 Nobel lecture of Ludwig Quidde. He offered a sophisticated rebuttal to the old pacifist mentality that disarmament leads to security and peace.¹¹⁵ For Quidde, the relationship between disarmament and peace was exactly the reverse of the mentality of the early populist pacifists:

The popular, and one may say naive, idea is that peace can be secured by disarmament and that disarmament must therefore precede the attainment of absolute security and lasting peace. This idea prevailed in the early days of the organized peace movement.

. . . .
The relationship of the two problems is rather the reverse. To a great extent disarmament is dependent on guarantees of peace. Security comes first and disarmament second.¹¹⁶

Thus, for Quidde, the early pacifist conception that war could be abolished by declaration and that nations would simply agree to disarm ignored the political reality that armaments were necessary to protect against real or perceived dangers of war. His answer was to provide an alternative means for nations to feel and be safer through the promotion and maintenance of the international rule of law. “The security of which we speak is to be attained by the development of international law through an international organization based on the principles of law and justice.”¹¹⁷

Lange, the long-time President of the Inter-Parliamentary Union, expressed a similar skepticism about pacifism in his Nobel lecture. He indicated that “pacifism” was a word that never appealed to him because it was simply a negative moral protest against the use of violence and

113. See ABRAMS, *supra* note 58, at 126–27.

114. *Id.* at 126.

115. See Ludwig Quidde, Nobel Lecture (Dec. 12, 1927), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 47, 47, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1927/quidde-lecture.html.

116. *Id.* at 47–48.

117. *Id.*

war in international relations and that in his view it was better to espouse internationalism than pacifism.¹¹⁸ He considered internationalism to be “a social and political theory, a certain concept of how human society ought to be organized, and in particular a concept of how the nations ought to organize their mutual relations.”¹¹⁹ He argued that, if human society is to develop in a healthy manner, then it must organize itself internationally.¹²⁰ The key concept of internationalism was to respect nationalism for all it offers, but pursue economic and political objectives internationally in a spirit of peaceful cooperation for the promotion of common interests.¹²¹ Like Quidde, Lange interpreted “pacifism”—if one can even call it that—as centering on the gradual development of international organizations and the promotion of the international rule of law.

All of the establishment pacifists during this period focused on the theme of the international rule of law. Some, like Söderblom, remained unduly sentimental in their attachment to the ideal of an organized international society. Söderblom, a leader in Europe’s ecumenical movement, actually suggested in his Nobel lecture that a supranational legal system was ordained by God, that the construction of this new international judiciary was part of the continuation of God’s creation, and as such required unswerving obedience to its decisions.¹²²

Far more common among establishment pacifists during this period were the materialist and utilitarian appeals to the international rule of law. Few pacifists could articulate the justifications for such an organized international society better than Sir Angell in his Nobel lecture. Like Lange and Quidde, Angell believed that peace comes only through international order. He categorically rejected the position that war is waged by only evil men:

War is the outcome, not mainly of evil intentions, but on the whole, of good intentions which miscarry or are frustrated. It is made, not usually by evil men knowing themselves to be wrong, but is the outcome of policies pursued by good men usually pas-

118. See Christian Lange, Nobel Lecture (Dec. 13, 1921), in 1 NOBEL LECTURES, PEACE 1901–1926, *supra* note 26, at 336, 336, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1921/lange-lecture.html.

119. *Id.*

120. See *id.* at 345.

121. *Id.*

122. See Nathan Söderblom, Nobel Lecture (Dec. 11, 1930), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 93, 101, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1930/soderblom-lecture.html.

sionately convinced that they are right.¹²³

Angell went on to argue that international society lacked even the rudimentary mechanics of organized society and that, consequently, nations use force, not as an international police force sustaining collective security, but much like a rival litigant would in a domestic context when attempting to impose his judgment upon the other.¹²⁴

[T]he real cause for the organization of the nations in some collective system is that so long as arms *are* retained . . . they can only become a means of effective security by putting them behind a law or rule which protects all parties. . . . [T]he only way out of [this] dilemma is for the community, by putting its combined power behind a protective law to assume the defense of the individual. Defense must be a communal, a collective function, or it cannot exist effectively at all.¹²⁵

The key idea is that, for establishment pacifists, the future development of international law was the source for security and the hope for disarmament. This emphasis represented a dramatic realignment in the pacifist movement, appealing to the reasonableness of the rule of law rather than the earlier emotional appeals to the tragedy of war.

C. *The Humanitarians*

One of the minor stories during the Statesman Period was the emergence of humanitarians as Laureates. Alfred Nobel's will envisioned that the Peace Prize would be awarded to "the person who shall have done the most or the best work for fraternity between nations, for the abolition or reduction of standing armies and for the holding and promotion of peace congresses."¹²⁶ By broadly conceiving the meaning of this work, the Nobel Committee could honor champions of peace who served humanitarian causes beyond the mere silencing of arms. During the Statesman Period, the Nobel Committee recognized organizations for their struggle to make war more humane. These organizations, including the International Committee of the Red Cross (ICRC), Fridtjof

123. Norman Angell, Nobel Lecture (June 12, 1935), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 153, 154, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1933/angell-lecture.html.

124. *Id.* at 163.

125. *Id.* at 164–65.

126. Will of Alfred Nobel, Founder of Nobel Prizes (Nov. 27, 1895), available at http://www.nobelprize.org/alfred_nobel/will/will-full.html.

Nansen, and the Nansen International Office for Refugees, did not strive to eliminate the scourge of war, but rather to minimize its harms.¹²⁷

With the exception of the ICRC,¹²⁸ which was first honored in 1917, the Nobel Prizes for humanitarian work during the Statesman Period focused on international governmental institutions, specifically the League of Nations. In 1922, the Nobel Committee recognized Nansen for his efforts to aid refugees and prisoners of war. Following the First World War, Nansen was charged by the League of Nations with coordinating the exchange of prisoners of war, and by September 1921 over 350,000 prisoners had been repatriated.¹²⁹ He was also appointed by the League of Nations as High Commissioner for Refugees, a position he held until his death in 1930.¹³⁰

In the final days of the League of Nations, the decision to recognize the League's Nansen International Office for Refugees punctuated the organization's positive humanitarian relief work.¹³¹ Much of the work of this office focused on refugee documentation through so-called "Nansen Passports," which nations recognized as adequate substitutes for stateless persons in lieu of traditional identity papers. This effort to systematize refugee documentation was achieved pursuant to international agreements on the status of refugees.¹³²

But recognition of the Nansen Office was also a calculated attempt to promote the international architecture of the League at a time when it was collapsing. "What we really need," the Nobel Committee argued in December 1938, "is an international body vested with the power which would place it above the states, a body that could maintain discipline, that could prevent war and create peace."¹³³ By recognizing an interna-

127. Léopold Boissier, President of the International Committee of the Red Cross, Nobel Lecture in the Name of the International Committee (Dec. 11, 1963), in 3 NOBEL LECTURES, PEACE 1951–1970, at 301, 309 (Frederick W. Haberman ed., 1972), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1963/red-cross-lecture.html.

128. The ICRC also received the prize in 1944 and 1963 and is discussed in the Humanitarian Period. See *infra* notes 141–52 and accompanying text.

129. Fredrik Stang, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Fridtjof Nansen (Dec. 10, 1922), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 353, 353, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1922/press.html.

130. *Id.* at 353 n.1.

131. See Fredrik Stang, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Nansen International Office for Refugees (Dec. 10, 1938), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 265, 265–67, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1938/press.html.

132. See John A. Scanlan, *A View from the United States: Social, Economic, and Legal Change, the Persistence of the State, and Immigration Policy in the Coming Century*, 2 IND. J. GLOBAL LEGAL STUD. 79, 110–11 (1994).

133. Stang, *supra* note 129, at 267.

tional organization that serves as an effective medium for extensive humanitarian work, the Nobel Committee expressed the hope that perhaps it would “pave the way for the more stable organization of which we have dreamed and for which we have hoped.”¹³⁴

D. *The Political Dissident*

Finally, the Statesman Period introduced the first Laureate in what would become one of the great themes of the Nobel Peace Prize: recognizing promotion of human rights. Carl von Ossietzky was the first Laureate who was a political prisoner at the time of his award, imprisoned for his outspoken opposition to German rearmament. Recognition of his plight represented an early incarnation of subsequent efforts by the Nobel Committee to honor prominent political dissidents such as Andrei Sakharov, Nelson Mandela, the Dalai Lama, and Aung San Suu Kyi. Ossietzky was Editor-in-Chief of *Die Weltbühne* [*The World Stage*], which published numerous stories about the secret efforts of Germany to rearm in violation of the Treaty of Versailles. In 1932, he was convicted of betraying military secrets and sentenced to prison. One month after Hitler became chancellor in 1933, Ossietzky was sent to a concentration camp as an enemy of the state, where he was physically and mentally tortured.¹³⁵

In awarding the prize to Ossietzky, the Nobel Committee recognized for the first time that a Laureate who might not have accomplished great things could nonetheless be a worthy recipient because of what his life symbolized. Ossietzky represented the first of the “symbolic Laureates.” During the presentation speech, Fredrik Stang, Chairman of the Nobel Committee, noted:

[H]ow great is the significance of the symbol in our life! In religion, in politics, in public affairs, in peace and war, we rally round symbols. We understand the power they hold over us. Moreover, as a rallying point, a symbol may well be preferable to a personality. . . . [T]he symbol is born of an idea and is the bearer of an idea.

....

. . . Ossietzky is not just a symbol. He is something quite different and something much more. He is a deed; and he is a

134. *Id.*

135. See ABRAMS, *supra* note 58, at 133–36.

man.¹³⁶

Ossietzky's prize may be the first Nobel Peace Prize awarded because of an explicit commitment to the cause of human rights.¹³⁷ In subsequent decades, the role of the dissident Laureates grew in importance, as they came to symbolize the plight of a much broader category of individuals who shared in their fate.

E. Norm Evolution in the Statesman Period

Of the nineteen recipients of the Nobel Peace Prize during the Statesman Period, thirteen delivered a Nobel lecture.¹³⁸ In those lectures, the ten most common themes addressed were as follows:

1. The League of Nations (100%)
3. International Economics (77%)
3. Disarmament (66%)
4. Development and Codification of International Law (62%)
4. Permanent International Judiciary (62%)
4. Nationalism/Patriotism (62%)
7. International Arbitration (54%)
7. Propaganda (54%)
7. Public Opinion (54%)
10. Abolition of War (46%)

In some respects, it is remarkable how similar the major themes were during both the Pacifist and Statesman Periods. The development and codification of international law and the role of international institutions continued to be of central importance. The peaceful settlement of disputes through arbitration and a permanent international judiciary were referenced with slightly less frequency, but were still a major priority. But in other respects, the themes of the Statesman Period differed

136. Fredrik Stang, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Carl von Ossietzky (Dec. 10, 1936), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 207, 209, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1935/press.html.

137. Ole Danbold Mjøs, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Shirin Ebadi (Dec. 10, 2003), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2003/presentation-speech.html.

138. Kellogg (1929) gave a lengthy banquet speech but not a formal Nobel lecture. See Frank B. Kellogg, Acceptance and Banquet Speech (Dec. 10, 1929), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 79, 79–86, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1929/kellogg-acceptance.html. His speech is coded for this Article as if it were a Nobel lecture. Wilson (1919) did not give a Nobel lecture but submitted a telegram that was read by the United States Minister in Oslo. See *supra* note 74. His telegram is not coded in the present analysis.

sharply from the Pacifist Period. Old concerns about pacifism and the abolition of war were discounted, and new issues, such as the international economic crisis in Europe and the reduction (rather than elimination) of arms, took on greater importance.

In terms of the evolution of international norms, there were a few notable international norms emerging during the Statesman Period. The most important of these were emerging norms relating to: (1) closer economic and political coordination among European nations; (2) a nascent commitment to human rights, particularly with respect to a state's treatment of its own nationals; and (3) normalizing the legal status of international refugees. These norms had yet to reach the point of a norm cascade during the interwar period, but for each of these norms such a tipping point was achieved almost immediately after the Second World War.

The Statesman Period was more notably successful for numerous norm cascades. Several of the international norms that emerged during the Pacifist Period achieved the status of norm cascades during this period. The most notable norm cascades during this period were: (1) the establishment of an international organization of states to secure and maintain peace and security (i.e., the League of Nations); (2) the establishment of a permanent international judiciary to resolve disputes (i.e., the League's Permanent Court of International Justice); (3) the further development and codification of international law; and (4) a *jus ad bellum* norm prohibiting aggressive war (i.e., the Locarno Pact and the Kellogg-Briand Pact). The tipping point for each of these norms was evident during the interwar period, although not all of them had become internalized by states. The postwar period built upon these norms, with each of them becoming central features in international relations.

III. THE HUMANITARIAN PERIOD¹³⁹ (1944–1959)

The postwar period was a transitional time for the Nobel Peace Prize. For the first time in the Prize's history, the great emphasis was on humanitarianism. The term "humanitarianism" includes the traditional un-

139. The Nobel Peace Laureates during this period were the International Committee of the Red Cross (1944); Cordell Hull (1945); Emily Greene Balch and John Mott (1946); Friends Service Council and American Friends Service Committee (1947); Lord Boyd Orr (1949); Ralph Bunche (1950); Léon Jouhaux (1951); Albert Schweitzer (1952); George C. Marshall (1953); the Office of the UN High Commissioner for Refugees (1954); Lester Pearson (1957); Georges Pire (1958); and Philip Noel-Baker (1959). No awards were given for the years 1939–1942, 1948, 1955, and 1956.

derstanding of promoting human welfare, saving human lives, and alleviating human suffering. But it also embraces the legal definition of humanitarian law (i.e., the international law dealing with “the permissible use of weapons and other means of warfare, the treatment of prisoners of war and civilian populations in armed conflicts, and generally the direct impact of war on human life and liberty”¹⁴⁰). Hence, this period is aptly described as the Humanitarian Period.

During the Humanitarian Period, the early themes of pacifism and international dispute settlement were largely ignored, with the former negated and the latter internalized within the framework of international organizations. Future themes, such as human rights and democracy, were just beginning to gain currency. The constant during this period and the previous periods was the promotion of international law and international organizations. The role of statesmen expanded to include not only the architects of international organizations, but also political leaders within those international organizations as part of a new breed of diplomats. Many of these statesman Laureates were noteworthy for their humanitarian efforts. The humanitarians also included traditional relief workers who aided refugees and war victims, as well as religious organizations and visionary leaders who symbolized concern for the plight of the needy.

A. *The Humanitarians*

While the Statesman Period made immeasurable contributions to principles of *jus ad bellum*, the Humanitarian Period was particularly significant for developing foundational principles of *jus in bello*. During this period, the Nobel Committee recognized the ICRC, the Office of the UN High Commissioner for Refugees (UNHCR), George Marshall, Emily Greene Balch, John Mott, Father Dominique Pire, and Albert Schweitzer.

The Committee’s decision to recognize the ICRC on three separate occasions (1917, 1944, and 1963) is a tribute to that organization’s efforts to make war more humane. Although the ICRC is “known first and foremost for its field operations in aid of victims of armed conflict” it is also recognized as “the ‘guardian’ of international humanitarian law This complex function . . . [has been] formally entrusted to it by the international community.”¹⁴¹ The ICRC has as one of its primary duties

140. BLACK’S LAW DICTIONARY 758 (8th ed. 2004).

141. YVES SANDOZ, THE INTERNATIONAL COMMITTEE OF THE RED CROSS AS GUARDIAN OF INTERNATIONAL HUMANITARIAN LAW 3 (Int’l Comm. of the Red Cross 1998), available at

“the development of international humanitarian law which protects the human person in the time of war.”¹⁴² Indeed, Article 5 of the Statutes of the ICRC states that one of its roles is “to undertake the tasks incumbent upon it under the Geneva Conventions, to work for the faithful application of international humanitarian law applicable in armed conflicts” and also “to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts.”¹⁴³

Thus, the ICRC is inextricably connected to the Geneva Conventions,¹⁴⁴ from the first groundbreaking treaty in 1864 that launched the modern international humanitarian law movement, to the ICRC’s successful efforts to negotiate new Geneva Conventions in 1906, 1929, and 1949.¹⁴⁵ The combined effect of these treaties is to “provide protection for all those who, as a consequence of armed conflict, have fallen into the hands of the adversary.”¹⁴⁶ At its core, the Geneva Conventions require that protected persons be “treated humanely” and “without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.”¹⁴⁷ The role of the ICRC is to monitor, promote, enforce, protect, and interpret international humanitarian law.¹⁴⁸ In short, its role is to watch over the law itself “to protect from those who may undermine or weaken it”¹⁴⁹

<http://www.icrc.org/Web/eng/siteeng0.nsf/html/about-the-icrc-311298>.

142. Boissier, *supra* note 127, at 303.

143. International Red Cross and Red Crescent Movement Statutes art. 5, available at [http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/statutes-movement-220506/\\$File/Statutes-EN-A5.pdf](http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/statutes-movement-220506/$File/Statutes-EN-A5.pdf) (last visited June 22, 2008).

144. *See id.* arts. 2–5.

145. *See, e.g.*, Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 [hereinafter Geneva Convention (1949)]; Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287; Geneva Convention Relative to the Treatment of Prisoners of War, July 27, 1929, 47 Stat. 2021, 118 L.N.T.S. 343; Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field, July 6, 1906, 35 Stat. 1885, 1 Bevans 516; Convention for the Amelioration of Wounded in Armies in the Field, Aug. 22, 1864, 22 Stat. 940, T.S. No. 377. *See generally* PIERRE BOISSIER, FROM SOLFERINO TO TSUSHIMA: HISTORY OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS 7–121 (Henry Durant Inst. 1985) (1963); J. HENRY DUNANT, A MEMORY OF SOLFERINO (Int’l Comm. of the Red Cross 1986) (1862); HENRY DUNANT, MÉMOIRES 32–121 (Bernard Gagnebin ed., 1971).

146. FRITS KALSHOVEN, CONSTRAINTS ON THE WAGING OF WAR 40 (1987).

147. Geneva Convention (1949), *supra* note 145, art. 3.

148. *See* SANDOZ, *supra* note 141, at 5.

149. *Id.* at 22.

Even the ICRC's relief work can be viewed as an effort to monitor and enforce international humanitarian law.

[T]he ICRC's field operations are clearly part of its function as guardian of international humanitarian law, because their purpose is to ensure that its rules are applied in practice. The ICRC does this in two ways. The first is to draw the parties' attention to their obligations . . . and to point out any failure to observe these obligations. The second is to protect victims and give them direct assistance to remedy the inevitable shortcomings observed by ICRC delegates in such circumstances.¹⁵⁰

With the 1949 Geneva Conventions, the ICRC dramatically expanded the protections under international humanitarian law to include wounded soldiers, prisoners of war, and civilians under enemy control. In so doing, the ICRC established itself as "the chief driving force behind the development of international humanitarian law."¹⁵¹ The essential rules of the Geneva Conventions require: (1) the parties in conflict to distinguish between the civilian population and combatants; (2) respect for the lives of those who no longer can or do take part in hostilities; (3) prohibitions on the killing or wounding of surrendered adversaries; (4) prohibitions on weapons or methods of warfare that cause unnecessary losses or suffering; (5) care and collection of the wounded and sick; (6) respect for the symbols of the red cross and red crescent; and (7) protection of all captured combatants and civilians against all acts of violence.¹⁵²

In addition to the ICRC, other relief organizations were honored for their humanitarian work. Two Quaker organizations, the Friends Service Council and the American Friends Service Committee, received the prize in 1947 for their relief and reconstruction efforts after the Second World War, while the UNHCR¹⁵³ was recognized in 1954 and 1981 for its international efforts to assist refugees.¹⁵⁴

150. *Id.* at 25–26.

151. International Committee of the Red Cross, From the Battle of Solferino to the Eve of the First World War (Dec. 28, 2004), at <http://www.icrc.org/web/eng/siteeng0.nsf/html/57JNVP>.

152. International Committee of the Red Cross, International Humanitarian Law: The Essential Rules, (June 4, 2004), at <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/5ZMEEM>.

153. See Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureates Friends Service Council and American Friends Service Committee (Dec. 10, 1947), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 373, 373–79, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1947/press.html.

154. See Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Office of the UN High Commissioner for Refugees (Dec. 10, 1955), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 89, 89–96, available at

The UNHCR deserves particular emphasis for its humanitarian work in shaping emerging norms pertaining to refugees. The UNHCR is the most important agency ever created for the protection of international refugees. Today, it is recognized as “one of the world’s principal humanitarian agencies,” having provided assistance to over fifty million people in over a half century of work.¹⁵⁵ Among the more important of the UNHCR’s efforts is the establishment and monitoring of the landmark 1951 Convention relating to the Status of Refugees (Refugee Convention), which guarantees protection of refugees who have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”¹⁵⁶ This “Magna Carta of international refugee law” includes the core international norms protecting refugees, most importantly the rule of *nonrefoulement*.¹⁵⁷ The UNHCR is recognized as the guardian of the Refugee Convention,¹⁵⁸ thus enjoying special status under the Convention’s Article 35.¹⁵⁹ The UNHCR’s central task is to ensure that the legal rights of refugees are respected, which requires it to monitor government compliance with the Refugee Convention, particularly prohibitions on the unlawful return to a country where a refugee has reason to fear persecution.¹⁶⁰

Certain statesman Laureates were honored for their humanitarian efforts during this period. In marked contrast to the response of the victors following the First World War, the new norm that emerged following the Second World War was that the victorious countries would provide significant financial aid and support for the economic reconstruction and development of the vanquished. In so doing, this norm also indirectly established international institutions to promote European economic cooperation.

http://www.nobelprize.org/nobel_prizes/peace/laureates/1954/press.html; UN High Commissioner for Refugees, *Helping Refugees: An Introduction to UNHCR* 5 (2006), at http://www.unhcr.se/Pdf/basics/helping_ref_06.pdf.

155. UN High Commissioner for Refugees, *supra* note 154, at 5.

156. Convention relating to the Status of Refugees art 1, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150 [hereinafter *Refugee Convention*].

157. Editorial, *The Refugee Convention at 50*, REFUGEES, July 2001, at 2, 2, available at <http://www.unhcr.org/home/PUBL/3b5e90ea0.pdf> [hereinafter *Refugee Convention Editorial*]. For extensive commentary on the Refugee Convention, see generally JAMES HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* (2005).

158. See *Refugee Convention Editorial*, *supra* note 157, at 2.

159. *Refugee Convention*, *supra* note 156, art. 35.

160. UN High Commissioner for Refugees, *supra* note 154, at 7.

The most important humanitarian statesman who embodied this norm was Marshall, author of the “greatest peacetime offer in history.”¹⁶¹ In announcing the Marshall Plan for European economic recovery in June 1947, Marshall underscored the connection between peace and economic recovery in Europe:

It is logical that the United States should do whatever it is able to do to assist in the return of normal economic health in the world, without which there can be no political stability and no assured peace. Our policy is directed not against any country or doctrine but against hunger, poverty, desperation and chaos. Its purpose should be the revival of a working economy in the world so as to permit the emergence of political and social conditions in which free institutions can exist.¹⁶²

This approach reflected an important emerging norm regarding the treatment of the vanquished following war. Rather than burden defeated countries with onerous war reparations and allow the victors to inherit the bankrupt estate of Europe in economic collapse, the response of the United States was to forgive or discount war debt and immediately work toward rehabilitation and integration. Marshall’s vision was that by providing funds under a comprehensive, multilateral plan for European reconstruction and cooperation, the United States could address the root causes of instability and promote the chance for more lasting peace in Europe.¹⁶³

Equally significant was the implementation of the Marshall Plan. One of its key goals was to forge economic integration in Western Europe.¹⁶⁴ Marshall emphasized that it must be the Europeans themselves who draw up the plan to place the continent back on its feet economically.¹⁶⁵ From this proposal, the Organisation for European Economic Cooperation (OEEC) was born in April 1948 as a permanent joint economic recovery organization with the immediate task of supervising the distribu-

161. DEAN ACHESON, *SKETCHES FROM LIFE OF MEN I HAVE KNOWN* 155 (1961).

162. George C. Marshall, The “Marshall Plan” Speech at Harvard University (June 5, 1947), available at http://www.oecd.org/document/10/0,3343,en_2649_201185_1876938_1_1_1_1,00.html.

163. See ACHESON, *supra* note 161, at 156; Robert H. Ferrell, *George C. Marshall*, in 15 *THE AMERICAN SECRETARIES OF STATES AND THEIR DIPLOMACY* 99 (Robert H. Ferrell & Samuel Flagg Bemis eds., 1966); JOHN GIMBEL, *THE ORIGINS OF THE MARSHALL PLAN* 53–99 (1976).

164. See MICHAEL J. HOGAN, *THE MARSHALL PLAN: AMERICA, BRITAIN, AND THE RECONSTRUCTION OF WESTERN EUROPE, 1947–1952*, at 192 (1987).

165. ACHESON, *supra* note 161, at 157.

tion of Marshall Plan aid.¹⁶⁶ Although originally focused on the distribution of aid, the OEEC soon became the “premier international institution committed to the advocacy and development of free market policies.”¹⁶⁷ The OEEC also laid the groundwork for the creation of the European Economic Communities (EEC) and the European Free Trade Area (EFTA).¹⁶⁸ With the establishment of the EEC in 1957, the original impetus of the OEEC was eclipsed and thus the OEEC was expanded and reborn in 1961 as the Organisation for Economic Cooperation and Development (OECD). The OECD now serves as the foremost economic organization dedicated to promoting free markets.¹⁶⁹ Thus, without having a direct role, Marshall dramatically influenced the establishment of regional European economic institutions by creating a collective action problem regarding the disbursement of Marshall Plan aid.

In awarding the prize to Marshall in 1953, the Nobel Committee recognized Marshall’s role in promoting European integration, as well as the link between Marshall and the international organization he encouraged the Europeans to establish.

The years that have gone by since he submitted his [Marshall Plan] program have demonstrated its constructive character. And the organs which have grown from the Marshall Aid have, more than anything else in these difficult years, contributed to what Nobel termed ‘the idea of a general peace in Europe’ and to a realistic materialization of . . . brotherhood among nations.¹⁷⁰

This period also included several other humanitarians who were not statesmen, including Balch, Mott, Pire, and Schweitzer. Each of these individuals was recognized for their humanitarian efforts: Pire with refugees in Europe,¹⁷¹ Mott with the worldwide ecumenical and youth

166. See Organisation for Economic Cooperation and Development, Organisation for European Economic Cooperation, at http://www.oecd.org/document/48/0,3343,en_2649_201185_1876912_1_1_1_1,00.html (last visited Apr. 24, 2008).

167. James Salzman, *Labor Rights, Globalization and Institutions: The Role and Influence of the Organization for Economic Cooperation and Development*, 21 MICH. J. INT’L L. 769, 775 (2000).

168. *Id.*

169. *Id.*

170. Carl Joachim Hambro, Nobel Committee Member, Presentation Speech for Nobel Laureate George Marshall (Dec. 10, 1953), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 65, 75, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1953/press.html.

171. For details on the work of Father Pire, see CHARLES DRICOT & DOMINIQUE-GEORGES PIRE, BUILDING PEACE (Graeme M. Ogg trans., 1967) (1966); VICTOR HOUART, THE OPEN HEART: THE INSPIRING STORY OF FATHER PIRE AND THE EUROPE OF THE HEART (1959);

movements,¹⁷² and Balch with immigrants and the poor in the United States and with the global women's peace movement.¹⁷³

Neither Mott nor Pire had a particularly significant role in promoting international law. Both Balch and Schweitzer, however, had much to say on the subject. Balch closely echoed the strong pacifist sentiments of the earlier period. In many respects, 1946 Laureate Balch was a bridge between the Pacifist Period's populism and the Humanitarian Period's institutional focus on social and economic justice. Balch wrote extensively on the plight of immigrants, international economics, international cooperation, colonialism, and the development of international law in the global commons of air, sea, and the polar regions.¹⁷⁴ She recognized that the United Nations was a vehicle with both a narrow focus on international peace and security, and a

limitless field of constructive international activity [I]t is a crucial mistake to suppose that peace and security are mainly a matter of stopping violence and aggression, instead of being essentially dependent on the positive cooperation, social and economic, by which any stable and fruitful condition of peace must be supported and nourished.¹⁷⁵

For her, UN organs were like filaments woven together as a web, "creating . . . an unbreakable fabric binding all together by the habit of common work for common ends."¹⁷⁶

More than anything, Balch represented a certain type of international cosmopolitanism. In her Nobel lecture, she spoke at length about the emerging "world community," focusing on unifying trends such as liberty, democracy, humaneness, public spirit, repudiation of violence, and spiritual universalism, as well as the institutional apparatus that was fos-

DOMINIQUE PIRE AS TOLD TO HUGUES VEHENNE, *THE STORY OF FATHER DOMINIQUE PIRE* (John L. Skeffington trans., 1961) (1959).

172. Mott was one of the founders of the ecumenical movement that led to the creation of the World Council of Churches. Much of the work of those organizations involved humanitarian relief, particularly during the First and Second World Wars. See C. HOWARD HOPKINS, JOHN R. MOTT: 1865–1955, at 82–83 (1979).

173. For a biography of the life of Balch, see MERCEDES M. RANDALL, *IMPROPER BOSTONIAN: EMILY GREENE BALCH* (1964).

174. See *id.* at 370–86; see also *BEYOND NATIONALISM: SOCIAL THOUGHT OF EMILY GREENE BALCH* (Mercedes M. Randall ed., 1972) [hereinafter *BEYOND NATIONALISM*].

175. *BEYOND NATIONALISM*, *supra* note 174, at 126

176. Emily Greene Balch, Nobel Lecture (Apr. 7, 1948), in 2 *NOBEL LECTURES, PEACE 1926–1950*, *supra* note 100, at 333, 347, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1946/balch-lecture.html.

tering the organization of “world society.”¹⁷⁷ She wrote near the end of her life, “I am a good American, but far more deeply and happily I feel myself a citizen of the world. . . . I am a patriot and my fatherland is this dear, dear earth.”¹⁷⁸

Far and away the most famous humanitarian during this period was the brilliant iconoclast, Schweitzer. His award marked a turning point in the history of the Nobel Peace Prize in that none of his work prior to receiving the award focused on international concerns. Instead, he was recognized for being a symbolic humanitarian. As the Nobel Committee put it:

His whole life and all of his work are a message addressed to all men regardless of nationality or race. . . .

. . . .

. . . [T]he very impact of his personality and the propagation of his gospel of love will in the final instance achieve more, and will . . . stimulate the growth of brotherhood among races.¹⁷⁹

Schweitzer was musician, theologian, philosopher, and medical missionary to equatorial Africa. His ethic—“[r]everence for life”—demanded reverence for human suffering and human life, for the smallest and most insignificant, as an inviolable law to rule the world.¹⁸⁰ This ethic encompasses modern understandings of international human rights. His ethic was, if you will, a religious apology for the sacredness of all life. In this sense, he is a kindred spirit with spiritual leaders of the Human Rights Period.¹⁸¹

Although not a lawyer or statesman, Schweitzer was significant in the development of international law, recognizing that exterior law was powerless to constrain state behavior in the absence of an inner compass directed toward peace. In his Nobel lecture, he criticized Immanuel Kant’s undue optimism about the efficacy of international law in the absence of this inward spirit.¹⁸² Schweitzer argued that the League of Nations and the United Nations were “doomed to fail” because they were

177. *Id.* at 342, 350.

178. BEYOND NATIONALISM, *supra* note 174, at 241.

179. Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Albert Schweitzer (Dec. 10, 1953), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 37, 37, 42, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1952/press.html.

180. THE WORDS OF ALBERT SCHWEITZER 35 (Norman Cousins ed., 1984).

181. See *infra* notes 295–317 and accompanying text.

182. See Albert Schweitzer, Nobel Lecture (Nov. 4, 1954), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 46, 53–55, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1952/schweitzer-lecture-e.html.

established “in a world in which there was no prevailing spirit directed toward peace.”¹⁸³ “Only when an ideal of peace is born in the minds of the peoples will the institutions set up to maintain this peace effectively fulfill the function expected of them.”¹⁸⁴ Using constructivist language, therefore, one might say that Schweitzer recognized that, if peace is to succeed, there must be individual and collective intentionality toward an ideational reality of peace.

B. The International Statesmen

The type of statesmen recognized during the Humanitarian Period differed significantly from the statesmen of the previous periods. These Laureates, including Cordell Hull, Philip Noel-Baker, Ralph Bunche, Lester Pearson, and Léon Jouhaux, were recognized for work that frequently transcended the traditional statesman’s role of promoting the national interest. Instead, this period saw the emergence of the international statesmen.

The most notable statesmen of this period were the architects of international organizations, especially the United Nations and its agencies. The period began and ended with recognition of founders of the United Nations. Hull received the prize in 1945 in recognition of his role as the “[f]ather of the United Nations.”¹⁸⁵ The idea of a postwar international organization began in earnest in January 1940 when Secretary of State Hull commissioned an advisory committee within the State Department “to plan the shape of things to come in the postwar world.”¹⁸⁶ Hull’s vision was that following the war the United States must use its moral and material influence to create “a stable and enduring world order under law.”¹⁸⁷ In October 1943, Hull and delegates from Britain, China, and the USSR met in Moscow and signed the Four-Nation Declaration, jointly declaring that the four countries “recognize the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-

183. *Id.* at 53.

184. *Id.* at 56.

185. Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Cordell Hull (Dec. 10, 1945), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 311, 317, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1945/press.html; see also Julius W. Pratt, *Cordell Hull*, in 13 (Vol. 2) THE AMERICAN SECRETARIES OF STATE AND THEIR DIPLOMACY 766–67 (Robert H. Ferrell & Samuel Flagg Demis eds., 1964).

186. Pratt, *supra* note 185, at 718.

187. *Id.* at 718–19.

loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security.”¹⁸⁸

During the Allies’ early debates about a future postwar structure to secure international peace and security, Hull was the strongest supporter of a global organization whose primary role would be conflict management.¹⁸⁹ It was also Hull who expressed the strongest reservations about Winston Churchill’s proposal for regional security arrangements led by the great Allied Powers.¹⁹⁰ And it was Hull again who pressed for self-determination of colonial dominions as an express commitment in the UN Charter.¹⁹¹ In establishing the United Nations, Hull recognized that, as a result of the war, “peoples in several areas unprepared for full independence would be released from political ties with nations formerly responsible for them.”¹⁹² So Hull convinced the Allied Powers to include in the UN Charter provisions for colonial self-government, with the United Nations assuming “a special . . . regard to them, analogous to that of a trustee or fiduciary.”¹⁹³

Hull’s vision was that this postwar peace organization would be the “final development of a full and complete structure of a world order under law.”¹⁹⁴ His 1945 Nobel lecture expressed optimism that the United Nations would fulfill its mission of enduring peace and an international rule of law:

Alfred Nobel, were he alive today, would, I am sure, have joined with me in unshakable faith that . . . the searing lessons of this latest war and the promise of the United Nations Organization will be the cornerstones of a new edifice of enduring peace and the guideposts of a new era of human progress.¹⁹⁵

The Nobel Committee returned to the UN founders near the end of the Humanitarian Period, focusing in 1959 on another UN architect,

188. Declaration of Four Nations on General Security, Oct. 30, 1943, in 9 DEP’T ST. BULL. 308, 309 (1943), available at <http://www.ibiblio.org/pha/policy/1943/431000a.html>.

189. Anthony Clark Arend, *The United Nations, Regional Organizations, and Military Operations: The Past and the Present*, 7 DUKE J. COMP. & INT’L L. 3, 5–6 (1996); Inis L. Claude, *The OAS, the UN, and the United States*, INT’L CONCILIATION, Mar. 1964, at 3–5.

190. See 2 CORDELL HULL, THE MEMOIRS OF CORDELL HULL 1642–47 (1948).

191. Pratt, *supra* note 185, at 738–52.

192. HULL, *supra* note 190, at 1235.

193. *Id.*; see also Pratt, *supra* note 185, at 751–52.

194. HULL, *supra* note 190, at 1717.

195. Lithgow Osborne, U.S. Ambassador to Norway, Acceptance Speech for Nobel Laureate Cordell Hull (Dec. 10, 1945), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 318, 319, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1945/hull-acceptance.html.

Noel-Baker.¹⁹⁶ Noel-Baker served as the British representative on the Preparatory Commission of the United Nations,¹⁹⁷ and his proposals in San Francisco “laid the groundwork for the organization of the United Nations and its various sections.”¹⁹⁸ In his view, as a matter of international law, the UN Charter made war inherently impossible as a means of settling disputes between nations.¹⁹⁹

Noel-Baker, a former international law professor at the University of London, was a “legal-utopian[]”²⁰⁰ who believed that disarmament could herald a day in which war would be abolished.²⁰¹ He remained firmly committed to the idea of international law, believing that lasting peace and justice “will only come from . . . a conscious, persistent effort to strengthen the deliberative institutions of the UN; the submission of all legal conflicts to the International Court [of Justice]; [and] the building up of international legislation and administration.”²⁰²

Neither Hull nor Noel-Baker viewed the United Nations through the “realist” lens as a grand power alliance. Rather, both perceived the United Nations as an “international legal regime” that reflected a world polity of “universal membership and a universal commitment to legal rather than political resolution of disputes.”²⁰³ Both Laureates were leaders in the “legalist” tradition, interpreting the United Nations as analogous to democratic self-government by its members. This legalist conception viewed the United Nations as borrowing from domestic liberal democratic principles to structure an international legal regime. That regime was to be founded on principles of sovereign equality, sovereign autonomy, universal membership, and the international rule of law.²⁰⁴

196. See D.J. WHITTAKER, *FIGHTER FOR PEACE: PHILIP NOEL-BAKER 1889–1982*, at 214–49 (1989).

197. *Id.* at 223–24.

198. Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Philip Noel-Baker (Dec. 10, 1959), in 3 *NOBEL LECTURES*, *supra* note 127, at 175, 182, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1959/press.html.

199. Philip Noel-Baker, Nobel Lecture (Dec. 11, 1959), in 3 *NOBEL LECTURES*, PEACE 1951–1970, *supra* note 127, at 186, 197–98, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1959/noel-baker-lecture.html.

200. Gerry Simpson, *Duelling Agendas: International Relations and International Law (Again)*, 1 *J. INT'L L. & INT'L REL.* 61, 65 (2005).

201. See PHILIP NOEL-BAKER, *THE ARMS RACE: A PROGRAMME FOR WORLD DISARMAMENT* (1958).

202. *Id.* at 563.

203. Anne-Marie Slaughter, *The Liberal Agenda for Peace: International Relations Theory and the Future of the United Nations*, 4 *TRANSNAT'L L. & CONTEMP. PROBS.* 377, 385–88 (1994).

204. *Id.* at 387.

The UN Charter itself supports Hull's and Noel-Baker's understanding of the United Nations as an international legal regime. Article 2 states that all member states: (i) are of equal status; (ii) commit to fulfill their obligations under the Charter; (iii) agree to settle their international disputes by peaceful means; and (iv) agree to refrain from the threat or use of force.²⁰⁵ At the same time, Article 2(7) recognizes the principle of sovereign autonomy on matters within each sovereign's domestic jurisdiction.²⁰⁶ This underscores that while the United Nations is a legal regime, it is also an international one. That is, its scope of application extends to international affairs, broadly construed to include domestic affairs that threaten the peace and security of international relations.

While Hull and Noel-Baker were recognized for founding the United Nations, other lesser known statesmen were recognized for their work on behalf of the United Nations. One, Bunche, received the prize in 1950 in honor of his successful efforts to negotiate an armistice between Israel and its Arab neighbors in 1949. In many respects, the recognition of Bunche was reminiscent of the 1906 award to Theodore Roosevelt, who was recognized for negotiating a settlement between Japan and Russia. The difference, of course, was that Roosevelt merely dreamed of a "League of Peace,"²⁰⁷ while Bunche was an international statesman entrusted by warring parties with the task of mediating an armistice. The eminent Israeli international law professor Shabtai Rosenne said that Bunche "was the incarnation of belief in the UN . . . as a necessity for the preservation of mankind in the nuclear age."²⁰⁸

It is worth emphasizing that recognition of Bunche also was a veiled attempt to highlight concerns about colonialism. When Bunche—the first non-white Laureate—received the award in 1950, the Nobel Committee attempted to recognize an individual who, like Mahatma Gandhi, was a racial minority who openly challenged colonial policies.²⁰⁹ Like

205. U.N. Charter art. 2.

206. *Id.*

207. Theodore Roosevelt, Nobel Lecture (May 5, 1910), in 1 NOBEL LECTURES, PEACE 1901–1925, *supra* note 26, at 104, 105, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1906/roosevelt-lecture.html.

208. Shabtai Rosenne, *Bunche at Rhodes: Diplomatic Negotiator*, in RALPH BUNCHE: THE MAN AND HIS TIMES 177, 183, 185 (Benjamin Rivlin ed., 1990).

209. Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Ralph Bunche (Dec. 10, 1950), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 435, 435, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1950/press.html. The failure to honor Gandhi has been described as the "most embarrassing omission" in the Nobel Peace Prize's history. Geir Lundestad, *Foreword* to PEACE! 15, 15 (Marek Thee ed., 1995). But Gandhi almost certainly would have received the prize in 1948 had he not been assassinated. When the Nobel Committee decided "not to award the prize that year because there was no 'suit-

Gandhi, Bunche was a vocal and early opponent of colonialism, and he first made his mark as a UN official dealing with colonial and African affairs.²¹⁰ In Bunche's view, the United Nations must serve as a catalyst for equality, colonial independence, and national self-determination:

It is worthy of emphasis that the United Nations exists not merely to preserve the peace but also to make change—even radical change—possible without violent upheaval. The United Nations has no vested interest in the status quo. It seeks a more secure world, a better world, a world of progress for all peoples. In the dynamic world society which is the objective of the United Nations, all peoples must have equality and equal rights.²¹¹

Another UN diplomat who focused on Middle East hostilities was the prominent Canadian diplomat, Pearson. He received the prize for his leadership as General Assembly President in establishing the UN Emergency Force (UNEF) in Egypt in 1956.²¹² The genius of Pearson's proposal was that it circumvented the Security Council (which was deadlocked) by securing Egyptian consent for a UN force to supervise the cessation of hostilities in the Suez Crisis. For this work, Pearson has been described as the father of international peacekeeping forces.²¹³ As Pearson put it in his Nobel lecture, UNEF constituted

the first genuinely international police force of its kind

. . . .

. . . [Such a force] would be futile in a quarrel between, or in opposition to, big powers. But it may have prevented a brush fire becoming an all-consuming blaze at the Suez last year, and it could do so again in similar circumstances in the future.²¹⁴

able living candidate” it is almost certain that “Gandhi’s place on the list of laureates remain[ed] reserved, but vacant.” Øyvind Tønnesson, *Why no Gandhi?*, in *HOW? THOUGHTS ABOUT PEACE*, *supra* note 2, at 35; *see also* Lundestad, *supra*, at 15.

210. Lawrence S. Finkelstein, *Bunche and the Colonial World: From Trusteeship to Decolonization*, in BENJAMIN RIVLIN, RALPH BUNCHE: THE MAN AND HIS TIMES 109, 109–11 (1990).

211. Ralph Bunche, Nobel Lecture (Dec. 11, 1950), in 2 NOBEL LECTURES, PEACE 1926–1950, *supra* note 100, at 441, 454, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1950/bunche-lecture.html.

212. *See* 2 JOHN ENGLISH, *THE WORLDLY YEARS: THE LIFE OF LESTER PEARSON* 137–45 (1992); JOHN MELADY, *PEARSON’S PRIZE: CANADA AND THE SUEZ CRISIS* 196 (2006); 2 MIKE: *THE MEMOIRS OF THE RIGHT HONOURABLE LESTER B. PEARSON* 274–76 (John A. Munro & Alex I. Inglis eds., 1973).

213. Richard H. Solomon & Ellen Laipson, *Foreword* to *TWENTY-FIRST CENTURY PEACE OPERATIONS* xii (William J. Durch ed., 2001).

214. Lester Pearson, Nobel Lecture (Dec. 11, 1957), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 129, 137, available at http://www.nobelprize.org/nobel_prizes/peace/

UN peacekeeping forces would prove to be one of the most significant instruments for the maintenance of international peace and security in the coming decades. Pearson's initiative also helped define the core principles of modern peacekeeping efforts, including consent of the parties to the conflict, non-use of force except in self-defense, political neutrality, and international legitimacy.²¹⁵

In stark contrast to earlier periods, the award to Pearson marks the first instance in which the Nobel Committee has honored someone for utilizing military force to promote peace. Pearson described the emerging recognition of the need for such international peacekeeping forces: "International force behind international decisions is still a far-distant dream [But m]ilitary power . . . used wisely and with an understanding of its limitations, is an essential support for policy."²¹⁶ It would be another thirty years before the Nobel Committee returned to this theme, when it awarded the prize to the UN Peacekeeping Forces in 1988.²¹⁷

The final international statesman Laureate during this period was Jouhaux, one of the founding architects of the International Labour Organization (ILO). The ILO represents an important example of norm entrepreneurs promoting the migration of domestic norms internationally through the creation of an organization. The goal of the labor movement was to "provide an apparatus for labor legislation on an international basis," leading to the creation of a "Magna Carta of trade union rights."²¹⁸ Jouhaux was instrumental in securing a place for such an organization in the Treaty of Versailles, including express recognition of the link between peace and labor rights. Significantly, Jouhaux joined the French delegation that helped draft the Versailles Treaty as an outside technical expert representing labor interests, which serves as an important early example of civil society's role in shaping international law.²¹⁹ In a clear victory for labor interests, Part XIII of the Treaty recognized that "peace can be established only if it is based upon social

laureates/1957/pearson-lecture.html; see also LESTER PEARSON, *DIPLOMACY IN A NUCLEAR AGE* 75–77 (1959).

215. See OLIVER RAMSBOTHAM ET AL., *CONTEMPORARY CONFLICT RESOLUTION* 134 (2d ed. 2005).

216. PEARSON, *supra* note 214, at 77.

217. See *infra* note 416 and accompanying text.

218. Arthur Wubnig, Book Review, 8 PAC. AFF. 245, 245 (1935) (reviewing JAMES T. SHOTWELL, *THE ORIGINS OF THE INTERNATIONAL LABOR ORGANIZATION* (1934)).

219. Léon Jouhaux, Nobel Lecture (Dec. 11, 1951), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 10, 20, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1951/jouhaux-lecture.html.

justice” and that peace and harmony are imperiled when labor injustices produce social unrest.²²⁰ Today the ILO is a UN agency and is the only League organization still in existence. The ILO also reflects a unique “tripartite” organizational structure for governance that includes representatives of governments, employers, and workers in its executive bodies.²²¹

In his Nobel lecture, Jouhaux emphasized that the goal of the international labor movement is

to extend the well-being of the worker, to give him a more equitable share of the products of collective work, to make Europe a social democracy, and to ensure the peace desired by men of every race and tongue by proving that the democracies can bring about social justice through the rational organization of production without sacrificing the liberty and the dignity of the individual.²²²

That goal is reflected today in ILO’s core labor standards: freedom of association; rights to collective bargaining; abolition of forced, compulsory, and child labor; and elimination of employment discrimination.²²³ These principles are now widely recognized as fundamental principles of international law.

C. *Norm Evolution in the Humanitarian Period*

In terms of themes addressed by the Laureates in their Nobel lectures, the focus was notably different in the Humanitarian Period than in previous periods. Every Laureate gave a Nobel lecture in this period, and in those lectures, the ten most common themes were as follows:

1. United Nations (73%)
2. Colonialism/Imperialism (60%)
2. International Economics (60%)
2. Democracy (60%)
2. Human Rights (60%)

220. Treaty of Peace with Germany pt. XIII, § I, June 28, 1919, 225 Consol. T.S. 373 (entered into force without United States as a party Jan. 10, 1920); *see also* ABRAMS, *supra* note 58, at 169.

221. *See* Laurence R. Helfer, *Understanding Change in International Organizations: Globalization and Innovation in the ILO*, 59 VAND. L. REV. 649, 651–53 (2006).

222. Jouhaux, *supra* note 219, at 27.

223. *See* International Labour Organization, Declaration on Fundamental Principles and Rights at Work § 2(a)-(d) (June 19, 1998), at <http://www.ilo.org/public/english/standards/reim/ilc/ilc86/com-dtxt.htm>.

- 2. Propaganda (60%)
- 2. Religion/Spirituality (60%)
- 2. Organized Religion (60%)
- 9. Development and Codification of International Law (53%)
- 9. Education (53%)

There were several notable developments of international norms during the humanitarian period. Among the emerging norms promoted by Laureates during the Humanitarian Period were: (1) expanding the protections of international humanitarian law; (2) recourse to international peacekeeping forces; (3) closer integration and cooperation within Europe; (4) the promotion of human rights; (5) the legal protection of international refugees; (6) restrictions on nuclear testing; and (7) independence for former colonies.

Several of these experienced norm cascades in the postwar period, including *jus in bello* principles of international humanitarian law, legal protections for international refugees, and the right to self-determination. Equally apparent during the humanitarian period was the emergence of a tipping point in favor of international organizations. The architects of the postwar era recognized they had a strategic opportunity to reshape the world, and they did so through international organizations. The United Nations, the ILO, the UNHCR, and the OEEC would prove to be among the most significant international organizations for the promotion of the international rule of law.

IV. THE HUMAN RIGHTS PERIOD²²⁴ (1960–1986)

The next major period in the history of the Nobel Peace Prize was the Human Rights Period. Earlier recipients had hinted at the growing importance of human rights. Beginning in 1960 with the recognition of the first African recipient, Albert Lutuli, the Nobel Committee launched it-

224. The Nobel Peace Laureates during this period were Albert Lutuli (1960); Dag Hammarskjöld (1961); Linus Pauling (1962); International Committee of the Red Cross and League of Red Cross Societies (1963); Martin Luther King (1964); UN Children's Fund (1965); René Cassin (1968); International Labour Organization (1969); Norman Borlaug (1970); Willy Brandt (1971); Henry Kissinger and Le Duc Tho (1973); Seán MacBride and Eisaku Sato (1974); Andrei Sakharov (1975); Betty Williams and Mairead Corrigan (1976); Amnesty International (1977); Anwar Sadat and Menachem Begin (1978); Mother Teresa (1979); Adolfo Pérez Esquivel (1980); Office of the UN High Commissioner for Refugees (1981); Alva Myrdal and Alfonso García Robles (1982); Lech Walesa (1983); Desmond Tutu (1984); International Physicians for the Prevention of Nuclear War (1985); and Elie Wiesel (1986). No awards were given for the years 1966, 1967, and 1972.

self in a dramatically new direction. Human rights became recognized as an indispensable ingredient for achieving peace.

One senses with these Laureates a discounting of traditional issues of war and a shifting of emphasis to broader conceptions of peace. For these Laureates, peace is not the absence of war, but rather the failure to secure freedom and justice. The term “peace” is now presented expansively to encompass general concerns for human rights. Martin Luther King eloquently expressed the emerging human rights emphasis when he said in his Nobel lecture, “We will not build a peaceful world by following a negative path. It is not enough to say, ‘We must not wage war.’ . . . We must concentrate not merely on the negative expulsion of war, but on the positive affirmation of peace.”²²⁵

If the human rights Laureates evidenced the Nobel Committee’s great wisdom, the other recipients during this period were far less noteworthy. They included generally uninspiring pragmatic statesmen, controversial scientists, and, with one exception, humanitarian organizations that had been recognized before.

A. *The Human Rights Advocates*

The Human Rights advocates included three notable Laureates instrumental in establishing major international human rights treaties: René Cassin, Seán MacBride, and the ILO. Honoring these Laureates underscored the importance of international human rights law for the cause of peace. The other human rights advocates recognized during this period include Albert Lutuli, Martin Luther King, Desmond Tutu, Andrei Sakharov, Amnesty International, Adolfo Pérez Esquivel, Mother Teresa, and Elie Wiesel.

Cassin was one of the chief architects of the Universal Declaration of Human Rights,²²⁶ “the most important [human rights] declaration ever

225. Martin Luther King, Nobel Lecture (Dec. 11, 1964), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 331, 343, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1964/king-lecture.html.

226. Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948). Cassin was not the only major draftsman of the Declaration. The drafting committee also consisted of Eleanor Roosevelt, Charles Malik, P.C. Chang, Geoffrey Wilson, Hernán Santa Cruz, Vladimir Koretsky, and Colonel William Hodgson. MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 53–72 (2001). At least one leading historian has argued that John Humphrey was the *primus inter pares* of the Declaration despite not being on the drafting committee. See JOHANNES MORSINK, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: ORIGINS, DRAFTING AND INTENT 28–35 (1999).

adopted by mankind.”²²⁷ Speaking in 1948, Eleanor Roosevelt said of the Declaration: “We stand today at the threshold of a great event both in the life of the United Nations and in the life of mankind. This Universal Declaration of Human Rights may well become the international Magna Carta of all men everywhere.”²²⁸ Similarly, another key drafter, Charles Malik, underscored the historic nature of the Declaration: “This is the first time the principles of human rights and fundamental freedoms are spelled out authoritatively and in precise detail.”²²⁹

In awarding him the Peace Prize, the Nobel Committee recognized Cassin as one of two individuals principally responsible for drafting the Declaration.²³⁰ The honor to Cassin was in recognition of the growing importance of international human rights law. The Nobel Committee’s presentation speech recognized the Universal Declaration of Human Rights as a turning point in the history of international law, with earlier treaties focusing on interstate relations and the Declaration making the individual the focus of international law.²³¹ The Declaration “marked the beginning of a new era,” which “breaks away from the old, set doctrines of international law” and transcends the “boundaries of the old sovereign states.”²³² Equally significant, the choice to honor Cassin in 1968 was also a reflection of the Committee’s desire to promote ratification of the two 1966 Human Rights Conventions, transforming human rights law from precatory aspirations to binding treaty obligations.²³³ Negotiations on these two conventions began at the same time as the Declaration, but transforming human rights ideals into binding treaty obligations took far longer than expected.²³⁴

227. Seán MacBride, Nobel Lecture (Dec. 12, 1974), in 4 NOBEL LECTURES, PEACE 1971–1980, at 86, 97 (Irwin Abrams ed., 1997), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1974/macbride-lecture.html.

228. Eleanor Roosevelt, U.N. Address on the Universal Declaration of Human Rights (Dec. 9, 1948), available at <http://www.americanrhetoric.com/speeches/eleanorrooseveltdclarationhumanrights.htm>.

229. GLENDON, *supra* note 226, at 164.

230. Aase Lionaes, Nobel Committee Chairmen, Presentation Speech for Nobel Laureate René Cassin (Nov. 10, 1968), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 385, 385–87, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1968/press.html. The other individual, Eleanor Roosevelt, likely would have been a co-recipient with Cassin had she not died in 1962. In presenting the award to Cassin, the Nobel Committee described Roosevelt and Cassin as “the architects of the Declaration of Human Rights.” *Id.* at 387. Another major draftsman, John Humphrey, was not even mentioned. *See id.* at 385–93.

231. *Id.* at 390.

232. *Id.*

233. *Id.* at 392.

234. *See* GLENDON, *supra* note 226, at 87.

Cassin was among the most significant human rights advocates of his day. He also was one of last international jurists to ever receive the Nobel Peace Prize. Cassin taught in Lille and Paris for over forty years and he was a member (1959–1965) and then President (1965–1968) of the European Court of Human Rights (ECHR) from 1959 to 1968. In his Nobel lecture, Cassin described these human rights developments as a “veritable juridical revolution.”²³⁵ In the future, he said, “there should be no doubt about the fundamental question” of whether “sovereign states have retained or lost their traditionally exclusive sphere of authority over the manner of dealing with those under jurisdiction. That jurisdiction of the states will always be a fundamental principle. It will remain basic. But it will no longer be exclusive.”²³⁶ This development subjected nations by their own consent to the authority of international law and also gave individuals international legal personality.²³⁷

MacBride, Ireland’s Minister for External Affairs, was one of the other great human rights advocates of his day, particularly with respect to the adoption of human rights norms in Europe. The movement to establish a European human rights charter came immediately on the heels of the Universal Declaration of Human Rights. The impetus for this European movement was concern not only about the recent past, in which the suppression of individual rights was the first step toward dictatorship, but also the growing threat of Stalinist Soviet Union, which threatened Western Europe’s commitment to the rule of law and devotion to the moral values that were the common heritage of Europe.²³⁸

The negotiations on the European Convention on Human Rights began in earnest in August 1949 with MacBride proposing that human rights be added to the agenda of the Council of Europe’s Consultative Assembly.²³⁹ In just over a year, the Convention was signed, with MacBride as one of the original thirteen signers.²⁴⁰ The European Convention on Human Rights was one of the most important developments in the history of human rights, creating binding treaty obligations to re-

235. René Cassin, Nobel Lecture (Dec. 11, 1968), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 394, 402, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1968/cassin-lecture.html.

236. *Id.*

237. *Id.*

238. J.G. MERRILLS & A.H. ROBERTSON, HUMAN RIGHTS IN EUROPE: A STUDY OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS 3–4 (4th ed. 2001).

239. ABRAMS, *supra* note 58, at 224.

240. *Id.*

spect human rights with procedural mechanisms for genuine enforcement.²⁴¹

MacBride received the Nobel Peace Prize in 1974 in recognition of a long career promoting human rights. In addition to his role in establishing the European Human Rights Convention, he also was a co-founder of Amnesty International and was Secretary-General of the International Commission of Jurists. But looking back on his long career, he stated that his most satisfying accomplishment was the European Convention on Human Rights.²⁴² In honoring MacBride, the Nobel Committee recognized his “dominant role in piloting this convention through to a successful conclusion” while also recognizing that the remainder of his life was devoted to promoting greater respect for human rights.²⁴³ Due to his lifelong dedication to the cause of human rights, MacBride took his place with other Laureates “who have made a great contribution to the cause of human rights.”²⁴⁴

The great innovation of the European Human Rights Convention was a mechanism for collective guarantee of the rights embodied in it, including the revolutionary provision granting an individual the right to bring a direct challenge against his country for violations. “This was the first proposal to provide an international remedy for an individual whose rights had been infringed by a sovereign State.”²⁴⁵ MacBride envisioned expanding the ECHR model of individual remedies on a worldwide scale. In his Nobel lecture, he described the effective protection of human rights at the international level as one of the fundamental imperatives of humanity.²⁴⁶ MacBride’s “ideal would be the establishment of a universal Human Rights Court, with the authority to deal with complaints from individuals who were being subjected to persecution in violation of the universally accepted principles of justice.”²⁴⁷

MacBride and Cassin both represent the only two instances in which international lawyers instrumental in the establishment of canonical human rights treaties were honored with the Nobel Peace Prize. They

241. Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 222.

242. ABRAMS, *supra* note 58, at 224; Charles P. Kindregan et al., *Sean MacBride: 20th Century Lawyer*, ADVOCATE, Spring 1980, at 2, 16.

243. Aase Lionaes, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Seán MacBride (Dec. 12, 1974), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 63, 69, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1974/press.html.

244. *Id.* at 71.

245. MERRILLS & ROBERTSON, *supra* note 238, at 8–9.

246. MacBride, *supra* note 227, at 89.

247. Lionaes, *supra* note 243, at 70.

promoted the emergence of human rights norms through binding obligations under international law. But there were other human rights Laureates during this period that also played major roles in promoting human rights, one of the most significant of which was the ILO.

The Nobel Committee had previously honored the ILO by awarding the Nobel Peace Prize to Jouhaux, one of its founders, in 1951.²⁴⁸ The Committee recognized the ILO again in 1969 for its major contribution toward social justice in the employment context. Indeed, the ILO is unusual in its role as norm entrepreneur because the principal reason for its existence is as a vehicle for promoting international law.²⁴⁹ Since its inception, the ILO has established over 185 conventions relating to labor standards.²⁵⁰ The ILO has been so successful that international law in this area has been described as the “equivalent of a major branch of a . . . legal system.”²⁵¹ As the Nobel Committee stated, “[W]e are justified in saying that the ILO has permanently influenced the social welfare legislation of every single country.”²⁵² The corpus of these labor conventions gives precise form and content to numerous economic and social rights that are more abstractly embodied in the Universal Declaration of Human Rights.²⁵³

Cassin, MacBride, and the ILO were each instrumental in facilitating a norm cascade establishing international human rights law. But other Laureates also played central roles in the evolution of human rights law. Particularly noteworthy were human rights norm entrepreneurs during this period who were the victims of injustice and who served as symbolic representatives of their people. The prophetic role of these Laureates was to appeal to the conscience of the international community in order to transform human rights from an abstract ideal to an internalized norm.

248. See *supra* notes 218–23 and accompanying text.

249. See VICTOR-YVES GHEBALI, *THE INTERNATIONAL LABOUR ORGANISATION* 204 (1989).

250. See International Labour Organization, *Official Titles of the Conventions adopted by the International Labour Conference* (2006), at <http://www.ilo.org/ilolex/english/conventions.pdf> [hereinafter *ILO Conventions*].

251. C. WILFRED JENKS, *SOCIAL JUSTICE IN THE LAW OF NATIONS* 69 (1970).

252. Aase Lionaes, Nobel Committee Chairman, *Presentation Speech for Nobel Laureate International Labor Organization* (Dec. 10, 1969), in 3 *NOBEL LECTURES, PEACE 1951–1970*, *supra* note 127, at 415, 419, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1969/press.html. The number of ILO conventions now exceeds 185. See *ILO Conventions*, *supra* note 250.

253. Wilfred Jenks, *The ILO Approach to Human Rights*, in *SOCIAL POLICY IN A CHANGING WORLD* 13 (1976).

Lutuli and King each received the Nobel Peace Prize in the early 1960s in recognition of their nonviolent efforts to promote racial equality. As Zulu chief and leader of the African National Congress, Lutuli promoted racial reconciliation and equality and “embodied . . . the spirit of non-racialism in a society riven by racial quarrels.”²⁵⁴ In his Nobel lecture, he emphasized that the true patriots of South Africa will be satisfied with nothing less than full rights for all South Africans, white and black:

In government we will not be satisfied with anything less than direct, individual adult suffrage In economic matters we will be satisfied with nothing less than equality of opportunity in every sphere In culture we will be satisfied with nothing less than the opening of all doors of learning . . . on the sole criterion of ability. In the social sphere we will be satisfied with nothing less than the abolition of all racial bars. We do not demand these things for people of African descent alone. We demand them for all South Africans, white and black.²⁵⁵

In awarding the prize to Lutuli, the Nobel Committee emphasized that while “Lutuli’s fight has been waged within the borders of his own country . . . the issues raised go far beyond them. He brings a message to all who work and strive to establish respect for human rights both within nations and between nations.”²⁵⁶

The same was true of King, one of the most famous Laureates. King’s life long struggle was to secure racial equality in the United States; his nonviolent efforts rarely focused on racial injustice abroad. But his Nobel lecture was different; it emphasized the connection between the American struggle and the rest of the world:

In one sense the civil rights movement in the United States is a special American phenomenon which must be understood in the light of American history and dealt with in terms of the American situation. But on another and more important level, what is happening in the United States today is a relatively small part of

254. COLIN LEGUM & MARGARET LEGUM, *THE BITTER CHOICE: EIGHT SOUTH AFRICANS’ RESISTANCE TO TYRANNY* 65 (1968).

255. Albert Lutuli, Nobel Lecture (Dec. 11, 1961), in 3 *NOBEL LECTURES, PEACE 1951–1970*, *supra* note 127, at 215, 226–27, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1961/lutuli-lecture.html.

256. Gunnar Jahn, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Albert Lutuli (Dec. 10, 1961), in 3 *NOBEL LECTURES, PEACE 1951–1970*, *supra* note 127, at 209, 216, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1960/press.html.

a world development. . . . What we are seeing now is a freedom explosion All over the world, like a fever, the freedom movement is spreading in the widest liberation in history. The great masses of people are determined to end the exploitation of their races and land.²⁵⁷

Neither Lutuli nor King intended to impact international law directly, but they did so nonetheless by embodying and symbolizing different parts of the global movement for racial equality. The struggle against colonialism, apartheid, and racial injustice were all intertwined as part of a groundswell of support for racial freedom. This movement manifested itself in international law.

By 1964, the United Nations had grown to 115 members, well over double the membership with which it began in 1945.²⁵⁸ Almost seventy-five percent of these countries were in the developing world, and the debates at the United Nations were transformed by this new controlling majority of delegates.²⁵⁹ The UN delegates from developing countries were united in their efforts to combat racial injustice. They were greatly influenced by King's struggle against racial discrimination within the United States and particularly galvanized by the racial persecution in South Africa.²⁶⁰ "With all these violations of racial equality, the new majority of Asian and African delegates decided that it was time for them to do whatever they possibly could to help transform this particular feature of the Universal Declaration into reality."²⁶¹

The immediate result was the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD).²⁶² The CERD was the first major international human rights treaty adopted since the Universal Declaration. As UN Secretary General U Thant put it, "[T]he world has anxiously awaited the completion of other parts of . . . an International Bill of Human Rights" and this convention represents "a most significant step towards the realization of one of the [United Nations'] long-term goals."²⁶³

257. King, *supra* note 225, at 334–35.

258. Robert G. Whalen, *The News of the Year in Review*, N.Y. TIMES, Dec. 27, 1964, at E3.

259. *Id.*; see also PAUL GORDON LAUREN, THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN 242 (2d ed. 2003).

260. LAUREN, *supra* note 259, at 243.

261. *Id.* at 244.

262. International Convention on the Elimination of All Forms of Racial Discrimination, Dec. 21, 1965, S. EXEC. DOC. C, 95–2 (1978), 660 U.N.T.S. 195.

263. NATAN LERNER, THE U.N. CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION 7 (2d ed. 1980).

The civil rights movement also directly affected the United States' political support for the CERD. Ambassador Arthur Goldberg explicitly linked support for the CERD with the domestic struggle for racial equality, describing it as according "completely with the policy of my government and the sentiments of the overwhelming majority of our citizens" in July 1966.²⁶⁴ He said that the United States "has not always measured up to its constitutional heritage of equality . . . but we have made much progress in the past few years, and while not all our ills have been cured, we are on the march."²⁶⁵

The success of CERD broke the stalemate that had prevented completion of the work on the other major human rights covenants.²⁶⁶ Passage of CERD "proved that if the political will existed among the majority, the United Nations could move forward in extending rights and setting standards."²⁶⁷ By easily securing passage of a treaty prohibiting racial discrimination, the UN delegates generated momentum the following year for adoption of the 1966 International Covenant on Civil and Political Rights²⁶⁸ and the International Covenant on Economic and Social Rights,²⁶⁹ the two most important human rights treaties since the Universal Declaration.

Never before in history had so many human rights treaties been created in such a short time.²⁷⁰ The struggle against colonialism, apartheid, and racial inequality coalesced in the mid-1960s with the conclusion of groundbreaking international human rights treaties. As a result, international law would never be the same.

By the mid-1980s, however, the international legal landscape had shifted dramatically. By the time Tutu received the Nobel Peace Prize in 1984, international law was firmly opposed to all forms of racial discrimination and apartheid. Tutu's role was not to promote international norm cascades, but rather to help South Africans internalize these norms. In presenting the prize to Tutu, the Nobel Committee explicitly linked Tutu with Lutuli, King, and the struggle for racial equality, emphasizing that the award to Tutu was not given in an attempt to con-

264. *Goldberg Says U.S. Will Sign U.N. Pact For Racial Equality*, N.Y. TIMES, July 7, 1966, at A22.

265. *Id.*

266. LAUREN, *supra* note 259, at 244.

267. *Id.*

268. International Covenant on Civil and Political Rights, Dec. 16, 1966, S. EXEC. DOC. C, 95-2 (1978), 999 U.N.T.S. 171.

269. International Covenant on Economic and Social Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

270. LAUREN, *supra* note 259, at 246.

vince the world of the evils of apartheid; on that score, South Africa had already judged itself guilty.²⁷¹ Rather, the award was given in “an attempt to awaken consciences” of South Africans: “The presentation of the Peace Prize to him is . . . not a judgment, rather it is a challenge, a hand stretched out . . . to conciliation and atonement.”²⁷²

In terms of constructivism, by the early 1980s the emergence and cascading of the norm against racial discrimination and apartheid had already taken place at the international level. Inspired by Lutuli and King, the norm of racial equality emerged from domestic contexts and then traveled upward and established itself at the international level. In South Africa, however, this international norm was not yet accepted at the domestic level. Tutu was a moral agent anointed by the Nobel Committee to promote that norm in the last country in the world that had yet to accept it.

While racial equality made great strides by the 1980s, other political freedoms remained highly contested, particularly in Communist countries. In the influential book, *The Helsinki Effect*, Daniel Thomas interprets the demise of Communism through the lens of the unprecedented social movement and opposition activity that emerged across the Eastern bloc in the aftermath of the Helsinki Final Act.²⁷³ No one was more significant to that movement than Sakharov. Recipient of the Nobel Peace Prize in 1975, Sakharov represents one of the best examples of the role of Laureates as international norm entrepreneurs. As a Laureate and the “most famous scientist and dissident” in the Soviet Union,²⁷⁴ Sakharov was an indispensable member of the informal “Helsinki network” that demanded Soviet adherence to the Helsinki principle of “respect [for] human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief.”²⁷⁵

In the fall of 1976, Sakharov appealed directly to newly elected President Jimmy Carter to take up the plight of political dissidents in the Soviet Union and Eastern Europe.²⁷⁶ He openly challenged the United

271. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Desmond Tutu (Dec. 11, 1984), in 5 NOBEL LECTURES, PEACE 1981–1990, at 103, 103 (Irwin Abrams ed., 1997), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1984/presentation-speech.html.

272. *Id.*

273. DANIEL C. THOMAS, *THE HELSINKI EFFECT: INTERNATIONAL NORMS, HUMAN RIGHTS, AND THE DEMISE OF COMMUNISM* 7 (2001).

274. *Id.* at 137.

275. The Final Act of the Conference on Security and Cooperation in Europe princ. VII, Aug. 1, 1975, 14 I.L.M. 1292.

276. ANDREI SAKHAROV, *ALARM AND HOPE* 43–56 (Efrem Yankelevich & Alfred Friendly,

States and Western Europe to defend the noble and vitally important Helsinki human rights principles rather than accept the noninterference interpretation that the leaders of the Soviet Union were defending.²⁷⁷ He wrote, “We are living through a period of history in which decisive support of the principles of freedom of conscience, an open society, and the rights of man is an absolute necessity. The alternative is surrender to totalitarianism, the loss of all precious freedom, and political, economic, and moral degradation.”²⁷⁸ Sakharov’s appeals were crucial in convincing the Carter administration to press the Soviet Union to adhere to its Helsinki commitments.²⁷⁹ This diplomatic pressure on human rights violations was a milestone in East-West relations. “For the first time, specific human-rights violations were discussed . . . and th[is] discussion drew the attention of the press, public figures, and world opinion.”²⁸⁰

At the same time Sakharov was appealing to public opinion abroad, he was fostering a human rights network at home. “Sakharov’s kitchen table was the crossroads of the [country’s] human rights movement.”²⁸¹ The Moscow Helsinki Watch Group was established in Sakharov’s apartment on May 12, 1976, to monitor Soviet compliance with its Helsinki commitments.²⁸² Subsequent Helsinki Watch groups were formed in Armenia, Georgia, Lithuania, and Ukraine.²⁸³ Human rights activists then emerged in Poland, Czechoslovakia, Hungary, and elsewhere in the Eastern bloc.²⁸⁴ Reflecting on these new human rights groups, Sakharov wrote in May 1978 that “it is now possible to speak of a united movement in the Soviet Union and Eastern Europe.”²⁸⁵

In the 1980s, the dissidents’ message began to take root with political elites, particularly Eduard Shevardnadze and Mikhail Gorbachev.²⁸⁶ By the time Gorbachev came to power in March 1985, he had already reached the “radical” conclusion that a government’s legitimacy depended upon its respect for human rights.²⁸⁷ As Thomas puts it, the

Jr. eds., 1978).

277. *Id.* at 157–59; see also THOMAS, *supra* note 273, at 146.

278. SAKHAROV, *supra* note 276, at 159.

279. THOMAS, *supra* note 273, at 145–48.

280. SAKHAROV, *supra* note 276, at 178.

281. DAVID REMNICK, *LENIN’S TOMB: THE LAST DAYS OF THE SOVIET EMPIRE* 280 (1993).

282. See THOMAS, *supra* note 273, at 160.

283. See *id.* at 163–66.

284. See *id.* at 167–89.

285. See SAKHAROV, *supra* note 276, at 174.

286. See THOMAS, *supra* note 273, at 224–29.

287. *Id.* at 280.

“Helsinki effect” suggests that human rights norms “mattered not because the Communist regimes were immediately anxious to comply . . . [but rather] because individuals and non-governmental organizations . . . insisted . . . that states must be accountable to their international obligations, and thereby entrapped the signatories in a transnational process of political change structured by formal international norms.”²⁸⁸

At the same time that Sakharov was giving voice to prisoners of conscience, the most prominent human rights organization in the world was also championing their cause. When Amnesty International received the Nobel Peace Prize in 1977 for its work promoting freedom of conscience, it was the first time in Nobel history that a human rights non-governmental organization (NGO) had been so recognized. In awarding the prize to Amnesty International, the Nobel Committee honored the organization’s efforts to challenge historical understandings of national sovereignty: “The view is now gaining ground that no state can lay claim to absolute national sovereignty where human rights that are universally recognised are involved. These rights are man’s common property, and no power constellation, no dictator, is entitled to deprive us of them.”²⁸⁹ Amnesty International’s Nobel lecture is one of the most articulate statements of the emerging international consensus regarding international human rights.

First, human rights are ends, rather than means. . . . Only when human rights are seen as ends will the violation of human rights be approached universally, impartially, constructively. . . .

Second, human rights are indivisible. . . . If a person is deprived of one right, his chance of securing the other rights is usually endangered. . . .

....

Third, human rights are concrete and specific. . . .

....

The protection of universal human rights requires the establishment of machinery to provide for effective ways of individual appeal and redress

....

Fourth, human rights are universal. Human rights are the

288. *Id.* at 282.

289. Aase Lionaes, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Amnesty International (Dec. 10, 1977), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 161, 162, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1977/press.html.

birthright of every single individual. . . .

.....
 Fifth, human rights will not be protected if left solely to the governments. . . . The ordinary individual can make a difference.²⁹⁰

The role of international NGOs as norm entrepreneurs is well-recognized, and scholarly analysis has highlighted Amnesty International's impact in shaping international human rights law.²⁹¹ Using constructivist language, Amnesty International has helped to socialize human rights and transform state interests beyond traditional domains of power, wealth, and security. States now agree to place themselves under normative constraints that limit their freedom and power,²⁹² such that human rights have become an interest of the state.²⁹³ Human rights are now a reflection of behavioral norms embedded in the collective understanding of the political community of liberal democratic states.²⁹⁴

The final human rights Laureates are among the most influential religious leaders of the century: Adolfo Pérez Esquivel, Mother Teresa, and Elie Wiesel. These human rights Laureates are philosophers for the poor and oppressed, who serve as "messenger[s] to mankind."²⁹⁵ Each promoted the cause of human rights by underscoring the value of every human being.

Pérez Esquivel was a leading exponent of the revolutionary Christian movement known as Liberation Theology, which gives first priority to the poor and dispossessed.²⁹⁶ This theology views the poor not "as ob-

290. Mümtaz Soysal, Nobel Lecture on behalf of Amnesty International (Dec. 11, 1977), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 168, 171–73, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1977/amnesty-lecture.html (emphasis omitted).

291. See, e.g., ANN MARIE CLARK, *DIPLOMACY OF CONSCIENCE: AMNESTY INTERNATIONAL AND CHANGING HUMAN RIGHTS NORMS* (2001); KECK & SIKKINK, *supra* note 6; THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE, *supra* note 6.

292. Morton Winston, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*, 23 HUM. RTS. Q. 1111, 1112 (2001) (reviewing CLARK, *supra* note 291).

293. Leslie Gelb & Justine Rosenthal, *The Rise of Ethics in Foreign Policy: Reaching a Values Consensus*, FOREIGN AFF., May–June 2003, at 2, 6.

294. THOMAS, *supra* note 273, at 261.

295. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Elie Wiesel, (Dec. 11, 1986), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 163, 164, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/presentation-speech.html.

296. See generally GUSTAVO GUTIÉRREZ, *A THEOLOGY OF LIBERATION: HISTORY, POLITICS, AND SALVATION* (Caridad Inda & John Eagleson eds. & trans., Orbis Books 1973) (1971).

jects of charity,” but as “products of a system of structures of injustice that produce marginalisation, misery, and hunger.”²⁹⁷ Pérez Esquivel’s work for liberation from injustice in its structural and personal dimension developed out of this understanding.²⁹⁸

The Nobel Committee honored Pérez Esquivel for the spirit of human dignity that animated his human rights work in Argentina. “He has heard and answered a social and political call to change the social and political world around him, so that respect for Man’s right and dignity can be aroused in the hearts of all, to the benefit of all mankind.”²⁹⁹ Put simply, the Nobel Committee was leveraging the power of a Catholic movement sweeping Latin America to further the cause of human rights. That work included outspoken challenges to government abuse throughout Latin America, including violence in his own country of Argentina.³⁰⁰ It also included challenging systematic economic injustice to the poor by domestic and international institutions. Indeed, far from praising international institutions, Pérez Esquivel viewed them as part of the problem. In his Nobel lecture, he argued that Latin America’s “injustices are bound up within an unjust international system, a system whose mechanisms . . . ‘produc[e] an international standard with the rich ever richer at the expense of the poor ever poorer.’”³⁰¹

If Pérez Esquivel invoked the anger of the poor and oppressed, Mother Teresa accentuated their dignity. Although she was not a human rights activist, her message lay at the heart of the human rights agenda, which upholds the worth of every human. If every individual matters, then every act of violence or oppression against every individual must be challenged. Mother Teresa proclaimed this message of human dignity everywhere, including to numerous heads of state who considered her a friend and even confidante.³⁰² Her biographer remarked that Mother Teresa was “the most powerful woman in the world. . . . With-

297. Adolfo Pérez Esquivel, Nobel Lecture (Dec. 11, 1980), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 250, 251, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1980/esquivel-lecture.html.

298. *Id.*

299. John Sanness, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Adolfo Pérez Esquivel (Dec. 11, 1980), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 237, 238, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1980/presentation-speech.html.

300. ADOLFO PÉREZ ESQUIVEL, CHRIST IN A PONCHO: WITNESSES TO THE NONVIOLENT STRUGGLES IN LATIN AMERICA 13–37 (1983).

301. Pérez Esquivel, *supra* note 297, at 253 (quoting Pope John Paul II).

302. NAVIN CHAWLA, MOTHER TERESA 175 (1992).

out any constituency save that of the least powerful and the poorest, Mother Teresa's entrée into the halls of power [was] effortless."³⁰³

The award to Mother Teresa recognized the critical component of internalizing norms regarding human dignity. As the Nobel Committee put it, "Can any political, social, or intellectual feat . . . on the international or on the national plane . . . give us anything but a house built on a foundation of sand, unless the spirit of Mother Teresa inspires the builders and takes its dwelling in their building?"³⁰⁴ Mother Teresa's Nobel lecture was a simple statement of the dignity and inspiration of the poor and oppressed. "The poor people are very great people. They can teach us so many beautiful things. . . . The poor are very wonderful people."³⁰⁵ For Mother Teresa, one who "live[s] like an animal on the street" and yet dies without cursing is an angel; "[s]uch is the greatness of the poor."³⁰⁶ She argued that such love, joy, and peace can "overcome all the evil that is in the world."³⁰⁷

In conferring the award to Wiesel in 1986, the Nobel Committee was quite explicit in highlighting Wiesel's message of human worth. The Committee deliberately connected the Holocaust survivor Wiesel with Ossietzky, one of the first human rights Laureates. Noting that it had been exactly fifty years since the prize was awarded to Ossietzky, the Committee concluded that:

With today's presentation of the Peace Prize, a bridge is built between the German who gave his life in the fight against what he saw was going to happen and the Jew who has dedicated his life to fighting anything that could lead to a recurrence of that same tragedy. It is appropriate that there is a Nobel Peace Prize at both ends of that bridge.³⁰⁸

303. *Id.* at 174.

304. John Sanness, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Mother Teresa (Dec. 11, 1979), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 213, 214, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1979/presentation-speech.html.

305. Mother Teresa, Nobel Lecture (Dec. 11, 1979), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 223, 224–27, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1979/teresa-lecture.html.

306. *Id.* at 226.

307. *Id.*

308. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Elie Wiesel (Dec. 10, 1986), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 163, 164, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/presentation-speech.html.

Wiesel's award came at a time when international human rights law was near the end of its norm life cycle. By the mid-1980s, the great bulk of the human rights agenda had been legally implemented. Since international law had largely completed the canon of human rights treaties, the emphasis had shifted to domestication, implementation, and compliance. It is thus not surprising that the award would go to someone who was recognized as "one of the most important spiritual leaders and guides . . . [A] messenger to mankind . . . of peace, atonement and human dignity."³⁰⁹ Wiesel is a messenger who warns of consequences and affirms new possibilities.³¹⁰ Wiesel's Nobel lecture was just such a message. He warned that we should never forget the horrors of the past, for every new violation is the defeat of memory and that if we fail to remember, we doom ourselves to repeat the disasters of the past.³¹¹ Wiesel was arguing for a new beginning, with every act of justice a repudiation of past injustice.³¹²

How do these messages fall within the process of the evolution of human rights norms? Each of these Laureates was honored near the end of the Human Rights Period, when the norm life cycle was in its final stage of internalization. Pérez Esquivel, Mother Teresa, and Wiesel embody and symbolize the value of the individual.³¹³ They provide morality stories of individual worth, supporting and explaining the reasons we have human rights laws in the first place. Pérez Esquivel summarized it simply in his Nobel lecture: "We are accustomed to hearing, wherever human rights are being violated, that it is being done in the name of higher interests. I declare that there exists no higher interest than the human being."³¹⁴ In Mother Teresa's case, she modeled an idealized spirit of love and respect toward the poor and oppressed. "The hallmark of her work has been respect for the individual and the individual's worth and dignity."³¹⁵ And Wiesel embodies the potential that lay

309. Press Release, Norwegian Nobel Committee, The Nobel Peace Prize for 1986 (Oct. 14, 1986), at http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/press.html.

310. ROBERT MCAFEE BROWN, ELIE WIESEL: MESSENGER TO ALL HUMANITY 38–40 (1983).

311. Elie Wiesel, Nobel Lecture (Dec. 11, 1986), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 174, 176, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1986/wiesel-lecture.html.

312. *See id.*

313. One could also classify 1976 Laureates Betty Williams and Mairead Corrigan—the two peace activists of Northern Ireland—in the category of messengers to mankind regarding love of neighbor and the value of the individual.

314. Pérez Esquivel, *supra* note 297, at 253–55.

315. Sanness, *supra* note 304, at 215.

within every human rights victim. One who seemed destined for execution not only survived, but conquered.³¹⁶ From Wiesel's large corpus of writings we can distill a single vision: a moral society is one that takes full account of the personhood of all its members and special concern for the powerless.³¹⁷ Such Laureates present the final stage in the norm life cycle of human rights: encouraging compliance by consent, recognizing the merit of an ethic of individual dignity that informs all human rights law.

B. *The Humanitarian Organizations*

The international organizations that received the Nobel Peace Prize during this period were similar to the recipients of the Humanitarian Period. Indeed, two of the three international organizations that received the Peace Prize during the Human Rights Period had previously been honored. The UNHCR and the ICRC were recognized the second and third times for their humanitarian efforts.³¹⁸ Only the award to the UN Children's Fund (UNICEF) plowed new territory.

The impact of the ICRC and UNHCR on international law has already been discussed at length.³¹⁹ But the award to UNICEF in 1965 marked the first time the Nobel Committee focused attention on the plight of children as a special category for protection. Throughout its history, UNICEF has focused on the humanitarian plight of children. But unlike the other international organizations discussed in this Article thus far, UNICEF has not been at the forefront of promoting international law. It was passive during the drafting of the 1959 Declaration of the Rights of the Child, fearing that embroiling itself in the controversial field of human rights might antagonize its governmental partners and jeopardize its humanitarian relief efforts.³²⁰

It was not until the 1980s that UNICEF took an active role in international law by mobilizing support for the 1989 Convention on the Rights of the Child.³²¹ UNICEF helped shape the Rights of the Child Convention so that it incorporated economic and social rights, rather than focus-

316. Aarvik, *supra* note 295, at 163–65.

317. BROWN, *supra* note 310, at 204–05.

318. In 1963, the Peace Prize also went to the League of Red Cross Societies.

319. See *supra* notes 141–60 and accompanying text.

320. MAGGIE BLACK, CHILDREN FIRST: THE STORY OF UNICEF, PAST AND PRESENT 22 (1996).

321. *Id.* at 23–25; Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, available at <http://www.unicef.org/crc/>.

ing exclusively on child exploitation and abuse.³²² The end product was a landmark treaty, representing the first international human rights convention in history to incorporate the full range of human rights—civil, cultural, economic, political, and social rights.³²³ UNICEF also was instrumental in mobilizing support within the developing world for the Rights of the Child Convention.³²⁴ The result is a treaty that is considered “the most rapidly and universally accepted human rights document in the history of international law.”³²⁵

It is worth emphasizing that each of these organizations honored primarily for their humanitarian work was also instrumental in promoting international law. The Geneva Conventions, the Refugee Convention, and the Rights of the Child Convention all support these organizations’ humanitarian efforts by proscribing unlawful behavior. The ICRC, UNHCR, and UNICEF each recognize that a critical component of their humanitarian work is establishing and promoting international standards of conduct with respect to those individuals falling under their umbrella of protection.

C. *The Pragmatic Statesmen*

Compared with previous statesman Laureates, the statesmen who received the Nobel Peace Prize during the Human Rights Period are atypical and, in some cases, quite controversial. The hallmark of the statesman Laureates during this period were the pragmatic policies of politicians in pursuit of the possible.

This group is comprised of statesmen with widely diverse interests and spheres of influence. What they have in common is the practical work they did to try to eliminate the most daunting threats to peace during their time. It includes Dag Hammarskjöld, Willy Brandt, Henry Kissinger, Le Duc Tho, Eisaku Sato, Alfonso García Robles, Alva Myrdal, Anwar Sadat, and Menachem Begin.

Hammarskjöld was posthumously honored in 1961 for his notably successful tenure as the second UN Secretary-General. Brandt received the prize in 1971 for his contribution towards European cooperation and East-West détente. Kissinger and Tho received the prize in 1973 for the

322. BLACK, *supra* note 320, at 139–44.

323. See Convention on the Rights of the Child, *supra* note 321.

324. BLACK, *supra* note 320, at 143–44.

325. Lauren M. Spitz, *Implementing the U.N. Convention on the Rights of the Child*, 38 VAND. J. TRANSNAT’L. L. 853, 854 (2005) (quoting Barbara Bennett Woodhouse, *Recognizing Children’s Rights: Lessons from South Africa*, HUM. RTS., Spring 1999, at 15, 15).

negotiated cease-fire in Vietnam. Sato, García Robles, and Myrdal won the prize for their strong position on nuclear nonproliferation. Sadat and Begin received the prize in 1978 for signing the Camp David Accords.

In each case, these individuals were political leaders or civil servants who exercised good judgment in the maelstrom of events. These statesmen “were awarded the Peace Prize because, within the framework of the politically possible, they championed a peace which, though it might not be perfect, was nevertheless a step along this road.”³²⁶

In most respects it is difficult to identify these statesmen as international norm entrepreneurs. Sato and García Robles, for example, were both unremarkable politicians who were recognized in 1974 and 1982, respectively, because they advocated nuclear nonproliferation in Asia and Latin America.

Swedish diplomat Alva Myrdal, however, cannot be so summarily dismissed. She stands out among the diplomats of this period as a paradigmatic norm entrepreneur. She was a spokeswoman to the world about the perils of the arms race. Her influential book, *The Game of Disarmament*, included a detailed survey of international law, which she described as a common denominator for judging the permissibility of using certain weapons or methods.³²⁷ The book attempted to sketch an international strategy for reaching agreements that would lead to more disarmament and arms regulation,³²⁸ and advocated a much stronger European disarmament movement.³²⁹ Within a few years, Ronald Reagan and Gorbachev launched their historic arms summits that would lead to the peaceful end of the Cold War superpower rivalry. Historians credit disarmament politics in Europe as a key factor in some of the critical arms reduction proposals made during those negotiations.³³⁰

While Myrdal was an exceptional example of the diplomat as norm agent, the other statesman Laureates in this period spoke more effectively through deed than word, and the message was one of pragmatism. For example, Hammarskjöld’s famous confrontation with Nikita Khrushchev in October 1960 represents one of many instances in which

326. Aase Lionaes, Nobel Committee Chairman, Presentation Speech for Nobel Laureates Henry Kissinger and Le Duc Tho (1973), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 43, 45, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1973/press.html.

327. ALVA MYRDAL, *THE GAME OF DISARMAMENT* 233–34 (2d ed. 1982).

328. *Id.* at xxxv–xxxvi.

329. *See id.* at 335–66.

330. *See, e.g.*, GLEN STASSEN & LAWRENCE WITTNER, *PEACE ACTION: PAST, PRESENT, AND FUTURE* (2007); LAWRENCE S. WITTNER, *TOWARD NUCLEAR ABOLITION: A HISTORY OF THE WORLD NUCLEAR DISARMAMENT MOVEMENT, 1971–PRESENT* (2003).

Hammarskjöld was upholding a certain vision of the sovereign equality of all nations. In refusing Khrushchev's demand for his resignation in order to safeguard the interests of the small powers, Hammarskjöld gave voice to the sentiment of developing nations that were looking to the United Nations for their protection and their future.³³¹ It also reflected a certain conception of executive power within the United Nations. Hammarskjöld conceived the UN Secretariat as obligated under the UN Charter to resist national pressures and to implement political decisions consistent with the exclusively international responsibility of the Secretary-General.³³²

Brandt's *Ostpolitik*—particularly the peace treaty with Poland signed in 1970—represents a resounding affirmation of the respect for the territorial sovereignty of one's neighbors. His reconciliation with Jewish victims of the Holocaust represented not only Germany coming to terms with its past, but also Germany's open embrace of the international rule of law through its deep contrition for past violations. Brandt's views of European cooperation promoted a vision of collective regional peace and security, in which Europe would become a union fully capable of assuming responsibility for world affairs independent of, but firmly linked with, the United States.³³³ In a real sense, Brandt symbolized the norm cascade of European integration and cooperation that had emerged with earlier Laureates, such as Chamberlain, Briand, Stresemann, and Marshall.

Even the most controversial awards in the Nobel Peace Prize's history reflect norm socialization, although not the type of norm one typically associates with the Nobel Peace Prize. The award to Kissinger and Tho displayed the Nobel Committee's rare embrace of international realism, honoring statesmen who incrementally "championed . . . peace" by working within the limits of what was "politically possible."³³⁴ Kissinger's acceptance speech also reflected that practical realism. He stated that peace is a delicate, ever fleeting condition, and that statesmen's

331. See *The New Boys*, TIME, Oct. 17, 1960, at 28, 28; Rolf Edberg, Swedish Ambassador to Norway, Acceptance Speech on behalf of Nobel Laureate Dag Hammarskjöld (Dec. 10, 1961), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 248, 248, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1961/hammarskjold-acceptance.html.

332. See Dag Hammarskjöld, *The International Civil Servant in Law and in Fact*, Lecture Delivered at Oxford University (May 30, 1961), available at <http://www.un.org/Depts/dhl/dag/docs/internationalcivilservant.pdf>.

333. Willy Brandt, Nobel Lecture (Dec. 11, 1971), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 20, 20, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1971/brandt-lecture.html.

334. Lionaes, *supra* note 326, at 43.

work should focus on those solutions that at best relieve specific sources of strain: “If peace, the ideal, is to be our common destiny, then peace, the experience, must be our common practice.”³³⁵

The same could be said of the awards to Sadat and Begin, the controversial 1978 awards given in recognition of their role in concluding the Camp David Accords. Like the awards to Kissinger and Tho, these awards were given as much for what they might portend for the future as for what had been accomplished in the past. According to the Nobel Committee, these two Laureates were honored for “laying a foundation . . . between these two one-time enemy countries,” in the “audacious . . . hope of peace for all peoples of the strife-torn and war-ravaged Middle East.”³³⁶

In his Nobel lecture, Begin, in particular, struck a realist tone, stressing that war may sometimes be the “highest human command” if the cause is just, as it was in the struggle against the Holocaust.³³⁷ That reality, however, does not deny the fact that “fighters for freedom hate war,” and “[the reason] you rise, you struggle, you make sacrifices” is to “achieve and guarantee the prospect and hope of living in peace.”³³⁸ Sadat was more hopeful in his Nobel lecture, but he too emphasized that Camp David was only the beginning of a process that eventually must reach its projected goal of bringing “security to the peoples of the area, and the Palestinians in particular, restoring to them all their right to a life of liberty and dignity.”³³⁹

The hope of peace in the Middle East, of course, has not been realized. The Nobel Committee would commit the same controversial act of “audacious hope” for Middle East peace again with the 1994 award to three controversial Laureates: Yasser Arafat, Shimon Peres, and Yitzhak Rabin.

335. Thomas Byrne, U.S. Ambassador to Norway, Acceptance Speech on behalf of Nobel Laureate Henry Kissinger (Dec. 10, 1973), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 54, 54, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1973/kissinger-acceptance.html.

336. Aase Lionaes, Nobel Committee Chairman, Presentation Speech for Nobel Laureates Anwar el-Sadat and Menachem Begin (Dec. 10, 1978), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 185, 185, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1978/press.html.

337. Menachem Begin, Nobel Lecture (Dec. 10, 1978), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 195, 195, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1978/begin-lecture.html.

338. *Id.*

339. Anwar Sadat, Nobel Lecture (Dec. 10, 1978), in 4 NOBEL LECTURES, PEACE 1971–1980, *supra* note 227, at 202, 202, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1978/al-sadat-lecture.html.

The pragmatic message in all these awards is the same: perfection in international politics is impossible and the Peace Prize can and should honor fallible politicians who make realistic and incremental steps toward the desired end of peace. So often ridiculed for its utopian idealism, the Nobel Committee has occasionally opted for hard-nosed realism. It has been criticized either way.

D. The Prophetic Scientists

Prior to the Human Rights Period, only one scientist, Lord Boyd Orr, had received the Nobel Peace Prize.³⁴⁰ During this period, however, four Laureates were honored for their scientific work: Linus Pauling, Norman Borlaug, Andrei Sakharov, and the International Physicians for the Prevention of Nuclear War (IPPNW). Sakharov was recognized for his human rights advocacy, and Borlaug was honored for his scientific innovations to enhance world food production. But the award to Pauling and the IPPNW marked a controversial shift in the Nobel Committee's tactics.

In honoring Pauling, the Nobel Committee advanced a new strategy for promoting international norms. The strategy recognized the general public's inability to grasp fully the danger of nuclear war. Whereas a typical Laureate could do little to explain credibly the nature of that risk, honoring a world renowned scientist enabled the Nobel Committee to ratify a voice of indisputable scientific authority that could widely disseminate the precise nature of the risk and propose a path toward diminishing or avoiding that risk. Pauling thus constituted a new breed of Laureate: the scientist as a prophet of doom. By enlisting this epistemic community of technical experts, the Nobel Committee hoped to sway public opinion regarding the perils that lay before them. The Nobel Committee would adopt this approach again in 1995 to combat nuclear war and in 2007 to highlight the problem of global warming.

Pauling's Nobel lecture perfectly illustrates the scientist Laureates' new role in promoting international norms relating to nuclear war. His main point was that scientists have a unique understanding of the dangers of nuclear war, and therefore they have a special responsibility to

340. Orr received the prize in 1949 in recognition of his position as director-general of the UN Food and Agricultural Organization (FAO). Orr was among the first Laureates in history to focus on world poverty, and his work with the FAO advanced issues such as emergency food aid, equitable food-supply distribution, and the promotion of worldwide agricultural development. See generally RALPH W. PHILLIPS, *FAO: ITS ORIGINS, FORMATION AND EVOLUTION 1945-1981* (1981), available at <http://www.fao.org/docrep/009/p4228e/P4228E00.HTM>.

make those dangers known.³⁴¹ Much of the lecture addressed the consequences to human life and health from radiation following a nuclear bomb.³⁴² From this, he concluded that nuclear war can never be justified and that international law should work toward the goal of abolishing it.³⁴³ He even went so far as to argue that the 1963 Nuclear Test Ban Treaty was “the most important action ever taken by the government of nations” because it would be the first of many nonproliferation treaties leading to a “new world from which war [would be] abolished forever.”³⁴⁴

The award to IPPNW in 1985 was an equally dramatic example of the scientist as norm entrepreneur. Physicians from capitalist and Communist states worked together to demonstrate that nuclear war would spell the end of civilization and prejudice the existence of life on earth. The straightforward message was that even if one could survive a nuclear war, such survival would overwhelm the capacity of every physician and nurse on earth to treat the injured.³⁴⁵ Consequently, they offered a “medical prescription for the survival of humankind,” including a ban on nuclear testing, a nuclear weapons freeze, and an eventual reduction and liquidation of nuclear weapons.³⁴⁶ According to the Nobel Committee, the award to IPPNW was an effort to direct the attention of the general public in all countries to the problem of nuclear disarmament.³⁴⁷

The Committee also sought to connect nuclear disarmament with human rights, arguing that the problem of disarmament is concerned with the most fundamental human right of all—the right to life.³⁴⁸ But that message was undermined when it was discovered that the lead Soviet scientist who gave the Nobel lecture on behalf of the IPPNW, Yevgeny Chazov, was a highly controversial figure who had denounced

341. Linus Pauling, Nobel Lecture (Dec. 11, 1963), in 3 NOBEL LECTURES, PEACE 1951–1970, *supra* note 127, at 271, 271–87, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1963/pauling-lecture.html.

342. *See id.*

343. *Id.*

344. *Id.*

345. Yevgeny Chazov, Nobel Lecture on behalf of Nobel Laureate IPPNW (Dec. 11, 1985), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 140, 140, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1985/physicians-lecture.html.

346. *Id.*

347. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate IPPNW (Dec. 10, 1985), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 131, 131, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1985/press.html.

348. *See id.*

Sakharov for advocating human rights.³⁴⁹ With Sakharov in exile in Gorky in 1985, bestowing the honor on Chazov was particularly awkward for the Nobel Committee. Indeed, the ceremony was tarnished with diplomatic protests, including German Chancellor Helmut Kohl and numerous others demanding that the award be rescinded.³⁵⁰

Likewise, the decision to honor Pauling was also highly contentious. Pauling had been under extensive investigation for links with Communism and he “aroused ire on both the right and the left and in parts of the center.”³⁵¹ Editorials at the time recognized that awarding the prize to Pauling was controversial and that Pauling had “not always been wise” and sometimes even “reckless” in his choice of tactics.³⁵²

The idea of conferring the Nobel Peace Prize on scientists who educate the general populace about the hazards of nuclear war was historically unprecedented. Truthfully, however, it is not a novel approach for promoting international norms. Indeed, scientists are a subset of a larger category of Laureates seeking to change public opinion and socialize norms through sharing particularized information. Chazov and Pauling were qualified to receive the prize because of their intellectual expertise to give scientific pronouncements. Some commentators, however, could not help but criticize their nonscientific activities, which may have had the unfortunate effect of diluting their message.

E. Norm Evolution in the Human Rights Period

Of the twenty-nine recipients of the Nobel Peace Prize during the Human Rights Period, twenty-seven delivered a Nobel lecture.³⁵³ In those lectures, the ten most common themes were as follows:

1. Human Rights (70%)
1. Democracy (70%)
3. Nuclear Weapons (63%)
3. Disarmament (63%)
3. Poverty (63%)
6. Organized Religion (56%)
7. United Nations (48%)

349. Richard Levine et al., *War Erupts Over the Peace Prize*, N.Y. TIMES, Dec. 15, 1985, at E2.

350. *See id.*

351. *Foe of Atom Testing*, N.Y. TIMES, Oct. 11, 1963, at A26.

352. Richard Severo, *Linus C. Pauling Dies at 93: Chemist and Voice for Peace*, N.Y. TIMES, Aug. 21, 1994, at A1.

353. Hammarskjöld received the award posthumously, and Tho declined the award.

- 8. Development and Codification of International Law (44%)
- 8. Religion/Spirituality (44%)
- 8. Rights of the Child (44%)

The Human Rights Period was notable for the emergence, cascading, and internalization of numerous international human rights norms, including prohibitions on racial discrimination, apartheid, children's rights, and other civil, political, economic, and social rights. Laureates featured in every aspect of the norm life cycle, from the emergence to acceptance and ultimately internalization of international human rights law. Some of these norms, such as norms against racial discrimination and apartheid and the establishment of regional human rights tribunals, moved through the entire evolutionary cycle from the beginning to the end of Human Rights Period. Other norms, such as children's rights, emerged and cascaded during this period but were still in the process of internalization by the end of the period. And still others, such as economic and social rights, emerged as international norms during this period, but have yet to experience a norm cascade.

Several Laureates continued to press for the acceptance of other emerging international norms, but with limited success. The most important of these related to nuclear disarmament. International treaties limiting the testing and proliferation of nuclear weapons were signed, and nuclear arms reductions featured prominently in the superpower summits at the end of the Cold War. But the larger objective of abolishing or dramatically reducing these weapons made little headway.

V. THE DEMOCRACY PERIOD³⁵⁴ (1987–PRESENT)

The final period in the history of the Nobel Peace Prize is the current age of democracy. Beginning in 1987, the Nobel Committee began emphasizing the “intimate relationship between peace and democracy.”³⁵⁵

354. The Nobel Peace Laureates during this period were Oscar Arias Sánchez (1987); UN Peacekeeping Forces (1988); the Dalai Lama (1989); Mikhail Gorbachev (1990); Aung San Suu Kyi (1991); Rigoberta Menchú Tum (1992); Nelson Mandela and F.W. de Klerk (1993); Yasser Arafat, Shimon Peres, and Yitzhak Rabin (1994); Joseph Rotblat and Pugwash Conferences on Science and World Affairs (1995); Carlos Filipe Ximenes Belo and José Ramos-Horta (1996); Jody Williams and International Campaign to Ban Landmines (1997); John Hume and David Trimble (1998); Médecins Sans Frontières (1999); Kim Dae-jung (2000); Kofi Annan and the United Nations (2001); Jimmy Carter (2002); Shirin Ebadi (2003); Wangari Maathai (2004); Mohamed ElBaradei and International Atomic Energy Agency (2005); Muhammad Yunus and Grameen Bank (2006); and Al Gore and the Intergovernmental Panel on Climate Change (2007).

355. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Oscar Arias Sánchez (Dec. 11, 1987), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at

The Nobel Committee recently acknowledged that human rights and democracy are now the dominant themes of the Peace Prize.³⁵⁶ From its perspective, democracy is not simply a form of government; it is an important tool in the work for peace: “Peace will be realised if democracy is realised.”³⁵⁷ The Nobel Committee’s argument is based on the syllogism that peace is impossible without human rights, that human rights is best safeguarded through democratic form of government, and, therefore, that democracy is an indispensable tool in the effort to pursue world peace. Having thus concluded, the Nobel Committee has placed its prestige in support of the global struggle for democracy, with at least twelve Laureates recently honored for their work in this area.

This is not to suggest that the other themes that emerged in previous periods were ignored. Indeed, there continue to be several Laureates who fall within other categories, such as pragmatic statesmen,³⁵⁸ traditional humanitarians,³⁵⁹ and prophetic scientists.³⁶⁰ But far more common and revealing has been the emerging theme of democracy as an indispensable tool to secure peace.

In celebration of its centennial, the Nobel Peace Prize also took an historic turn, focusing on the broad theme of defending the international rule of law. The awards to Jimmy Carter and various UN bodies and individuals highlighted the progress that has been achieved in the past century in establishing the international rule of law.³⁶¹ It also displayed a distinctly institutional preference for securing the international rule of law through the centralized authority of the United Nations.

Finally, the Nobel Committee for the first time honored a new type of nongovernmental diplomat. Beginning in 1997 with the award to Jody Williams and the International Campaign to Ban Landmines (ICBL), the Nobel Committee began to recognize transnational advocacy networks that work in partnership with like-minded countries to promote new in-

187, 187, *available at* http://www.nobelprize.org/nobel_prizes/peace/laureates/1987/presentation-speech.html.

356. Mjøs, *supra* note 137.

357. Aarvik, *supra* note 355, at 191.

358. These include the 1994 prize to Yasser Arafat, Shimon Peres, and Yitzhak Rabin and the 1998 prize to John Hume and David Trimble.

359. These include the 1999 prize to Médecins Sans Frontières and the 2006 prize to Muhammad Yunus and Grameen Bank.

360. These include the 1995 prize to Joseph Rotblat and the Pugwash Conferences on Science and World Affairs and the 2007 prize to the Intergovernmental Panel on Climate Change (IPCC).

361. These include the 1988 prize to the UN Peacekeeping Forces, the 2001 prize to Kofi Annan and the United Nations, and the 2005 prize to the International Atomic Energy Agency (IAEA) and Mohamed ElBaradei.

ternational norms. The unique emphasis of these Laureates is the emerging process by which international law is established with the active participation of NGOs.

A. *The Democracy Champions*

The Nobel Committee's recent focus on democracy has led to the recognition of numerous champions of democracy in the past two decades. The Laureates who can be categorized as democracy champions include the Dalai Lama, Aung San Suu Kyi, Rigoberta Menchú Tum, Carlos Belo, José Ramos-Horta, Mikhail Gorbachev, Nelson Mandela, F.W. de Klerk, Kim Dae-jung, Oscar Arias Sánchez, and Shirin Ebadi.

Although 1983 Laureate Polish Solidarity leader Lech Walesa was recognized at the end of the Human Rights Period, Walesa was the first great harbinger for democracy. "Since Solidar[ity] was the largest democratic movement in history, to study the Polish movement is to place oneself . . . in . . . a rare historical moment—a time when masses of people overcame the binding constraints of life in an authoritarian state had instilled in them as ongoing social habit."³⁶² The Polish government's decision to legalize Solidarity was one of the seminal moments in modern history. As Walesa put it in his Nobel lecture: "The Polish workers who participated in the strike actions, in fact represented the nation."³⁶³ In so doing, the Polish government was conceding that it did not represent the interests of the workers but that Solidarity did.³⁶⁴ Beginning with the events of August 1980, a democratic space was created in Poland with over ten million workers longing for freedom.³⁶⁵

Poland became a place where a majority of the population elected to engage in self-activity. It was the only country on earth where this was true. In consequence, Poland became, for a time, the most democratic society in the world, and Solidar[ity] became a model for people of all nations concerned about democratic governance to ponder.³⁶⁶

362. LAWRENCE GOODWYN, *BREAKING THE BARRIER: THE RISE OF SOLIDARITY IN POLAND* 264 (1991).

363. Lech Walesa, Nobel Lecture (Dec. 11, 1983), in *5 NOBEL LECTURES, PEACE 1981–1990*, *supra* note 271, at 89, 90, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1983/walesa-lecture.html.

364. THOMAS, *supra* note 273, at 205.

365. GOODWYN, *supra* note 362, at 270–71.

366. *Id.* at 273.

Walesa has said that the Peace Prize “made it possible for him to play the historic role he assumed in Poland.”³⁶⁷ And of course the events in Poland set the stage for democracy to spread throughout Eastern Europe. Within a few years, the Berlin Wall would fall and Walesa would be the president of a democratic Poland. As the modern democracy movement reached full flower, the Nobel Committee did not hesitate to use its prestige to champion the cause. The democracy Laureates generally fell into three major categories. The first category represents the prodemocracy dissidents in countries where political freedom is threatened. Such Laureates include Tibet’s Dalai Lama, Burma’s Suu Kyi, Guatemala’s Tum, and East Timor’s Belo and Ramos-Horta. The second category includes transformational statesmen who were instrumental in helping guide their respective country to become transitional democracies. These Laureates include Gorbachev, Mandela, de Klerk, and Kim. The third category of Laureates includes democracy advocates who used their political or institutional clout to promote democracy in their region. These Laureates include Sánchez and Ebadi.

The four prodemocracy dissidents are among the most inspiring and prominent group of Laureates in the post-Cold War era. These individuals represent two distinct scenarios in which democracy is threatened. The first scenario includes situations similar to those in Tibet and East Timor, where foreign occupation of the territory undermines democracy and self-determination. Independence, or at least regional autonomy, appears to be a desired outcome in this scenario. The second scenario includes situations like in Burma and Guatemala, where a country’s internal politics deprive citizens of political freedom. Full democratic participation and respect for democratic preferences are central goals in these scenarios.

The Dalai Lama received the Nobel Peace Prize in 1989, the infamous year of Chinese suppression of democracy demonstrators at Tiananmen Square. The Nobel Committee identified the Dalai Lama as the “religious and political leader of the Tibetan people” who has used nonviolent means in his “struggle for the liberation of Tibet.”³⁶⁸ They described Tibet as an “occupied country” and indicted the Chinese government of “the most pernicious crime any individual or nation can be accused of, viz., [the] wilful attempt to annihilate an entire people.”³⁶⁹

367. Lundestad, *supra* note 2, at 26.

368. Press Release, Norwegian Nobel Committee, The Nobel Peace Prize for 1989 (Oct. 5, 1989), at http://www.nobelprize.org/nobel_prizes/peace/laureates/1989/press.html.

369. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate the Dalai Lama (Dec. 10, 1989), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 237,

But the Dalai Lama was more than a leader of the Tibetan people. He also spoke with moral authority of the importance of democratic freedoms. Just one month after the fall of the Berlin Wall, the Dalai Lama's Nobel lecture recognized that the Cold War was ending and that people everywhere were living with renewed hope.³⁷⁰ The Chinese demonstrators' attempt to achieve similar change was also encouraging, he emphasized, because the military had not extinguished the demonstrators' desire for freedom. He saw the mobilization of democracy as a signal that peace was prevailing over war, reason was prevailing over violence, and freedom was prevailing over oppression.³⁷¹ "We are indeed witnessing a tremendous and popular movement for the advancement of human rights and democratic freedoms in the world. This movement has such moral force that even determined governments and armies are incapable of suppressing it."³⁷²

Two years later, the award went to Suu Kyi, the leader of the democratic opposition in Burma. After Suu Kyi won national elections in 1990, the military regime annulled the results and placed her under house arrest. The following year, the Nobel Committee honored her as "an important symbol in the struggle against oppression."³⁷³ In her writings on democracy, Suu Kyi has described the quest for democracy in Burma as "the struggle of a people to live whole, meaningful lives as free and equal members of the world community. It is part of the unceasing human endeavour to prove that the spirit of man can transcend the flaws of his own nature."³⁷⁴ She defined democracy "not merely as a form of government but as an integrated social and ideological system based on respect for the individual."³⁷⁵

In 1992, on the five-hundredth anniversary of Christopher Columbus's discovery of the New World, the Nobel Committee focused the world's attention on the plight of indigenous peoples. It awarded the prize to Tum, one of the leading advocates for the rights of indigenous

238, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1989/presentation-speech.html.

370. The Dalai Lama, Nobel Lecture (Dec. 11, 1989), in 5 NOBEL LECTURES, PEACE 1981–1990 *supra* note 271, at 247, 247, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1989/lama-lecture.html.

371. *Id.*

372. THE DALAI LAMA, A POLICY OF KINDNESS: AN ANTHOLOGY OF WRITINGS BY AND ABOUT THE DALAI LAMA 113 (Sidney Piburn ed., 1990).

373. Press Release, Norwegian Nobel Committee, The Nobel Peace Prize for 1991 (Oct. 14, 1991), at http://www.nobelprize.org/nobel_prizes/peace/laureates/1991/press.html.

374. AUNG SAN SUU KYI, FREEDOM FROM FEAR 179 (2d ed. 1995).

375. *Id.* at 173.

peoples, whose own story was of Mayan oppression at the hands of Guatemalan government forces.³⁷⁶ Although there is controversy over the veracity of certain claims of oppression in her autobiography, her story has come to symbolize disenfranchisement of indigenous peoples.³⁷⁷ “Her experiences were an amazing microcosm of the wider processes that over the past five hundred years have taken the land of indigenous people, exploited their labor, and reduced them to second-class citizens in their own countries.”³⁷⁸ Tum’s Nobel lecture highlighted the theme of indigenous oppression, focusing on the connection between democracy and social justice. She hoped that the Nobel Peace Prize would facilitate reconciliation in Guatemala, by granting indigenous peoples full citizenship rights and reestablishing “true democracy” by reinstating the people with their land.³⁷⁹

The 1996 award focused on democracy in East Timor, honoring Belo and Ramos-Horta. Recognition of the occupation of East Timor was similar to awards to prodemocracy dissidents who publicized the plight of oppressed groups in other countries. As Ramos-Horta said in his Nobel lecture: “From the Chittagon Hill Tracts in Bangladesh to Bougainville, Kurdistan, Sri Lanka, India, Tibet, Chechnya, Ogoni, West Papua, millions of peoples seek to assert their most fundamental rights and if we attempt to find a common denominator . . . there is one: the right of peoples to self-determination.”³⁸⁰

From a constructivist perspective, what is particularly noteworthy about East Timor was just how quickly events shifted away from the status quo. Whereas before Belo and Ramos-Horta received the prize, almost all doors were closed to them, after receiving the honor, they were “supremely confident that their struggle would succeed.”³⁸¹ Within three years, a referendum on East Timor’s autonomy would pass with an overwhelming majority, and on May 20, 2002, East Timor became an independent country. Since that date, Ramos-Horta served first as For-

376. See generally RIGOBERTA MENCHÚ, I, RIGOBERTA MENCHÚ: AN INDIAN WOMAN IN GUATEMALA (1984).

377. See ARTURO ARIAS, THE RIGOBERTA MENCHÚ CONTROVERSY (2001); DAVID STOLL, RIGOBERTA MENCHÚ AND THE STORY OF ALL POOR GUATEMALANS (1999).

378. STOLL, *supra* note 377, at 5.

379. Rigoberta Menchú Tum, Nobel Lecture (Dec. 10, 1992), in 6 NOBEL LECTURES, PEACE 1991–1995, at 39, 45–47 (Irwin Abrams ed., 1997), available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1992/tum-lecture.html.

380. José Ramos-Horta, Nobel Lecture (Dec. 10, 1996), in 7 NOBEL LECTURES, PEACE 1996–2000, at 28, 34 (Irwin Abrams ed., 2006), at http://www.nobelprize.org/nobel_prizes/peace/laureates/1996/ramos-horta-lecture.html.

381. Lundestad, *supra* note 2, at 25–26.

aign Minister and then Prime Minister. He is currently the second President of East Timor.³⁸² Given these results, it is not surprising that the award to Belo and Ramos-Horta has been cited as the “preeminent example” of the Peace Prize “at its best.”³⁸³ The Nobel Peace Prize was instrumental in facilitating a norm cascade for self-determination of the people of East Timor.

The second group of democracy Laureates represents transformational political statesmen who guided their countries to embrace democracy. These Laureates secured political acceptance of the legitimacy of democratic demands, thereby facilitating a norm cascade toward democracy in their respective countries.³⁸⁴

In 1990, Gorbachev was honored for his role in the transformation of Eastern Europe and the Soviet Union. Unlike past Soviet leaders who crushed democratic impulses, Gorbachev permitted Soviet bloc countries to regain their freedom and assume responsibility for their own destiny. The Nobel Committee praised the “new-found openness and willingness to cooperate shown by the Soviet Union, and its readiness to accept realistic compromise, [which] have created fresh hope under his leadership.”³⁸⁵ In other words, as the Soviet bloc was being torn asunder, Gorbachev was being honored for what he did not do with the awesome military power that he had at his disposal. In his memoirs, Gorbachev summarized his own thinking at the time: “[W]e did not intervene because to do so would have contradicted the principles of our new policy. The interventions undertaken previously had eventually turned into liabilities, Pyrrhic victories, for us. That was the lesson of Hungary in 1956, Czechoslovakia in 1968, and Afghanistan in 1979.”³⁸⁶ Historians would later conclude that Gorbachev “played the decisive part in allowing the countries of Eastern Europe to become free and independent.”³⁸⁷

But the Nobel Committee also recognized Gorbachev for his singular role in transforming the Soviet Union: “[W]e should like the many peoples of the Soviet Union to know that the respect and expectation of the

382. Donald Greenlees, *East Timor Figure's Victory Is Seen as Cause for Hope*, N.Y. TIMES, May 12, 2007, at A6.

383. Lundestad, *supra* note 2, at 25–26.

384. These include satellite countries of the Soviet Union.

385. Gidske Anderson, Nobel Committee Chairperson, Presentation Speech for Nobel Laureate Mikhail Gorbachev (Dec. 10, 1990), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 271, 271, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1990/presentation-speech.html.

386. MIKHAIL GORBACHEV, MEMOIRS 484 (Georges Peronansky & Tatjana Varsavsky trans., 1995).

387. ARCHIE BROWN, THE GORBACHEV FACTOR 317 (1996).

outside world for their great country have never been as profound as today. . . . It is our hope that we are now celebrating the end of the Cold War.”³⁸⁸ The forces that Gorbachev unleashed were greater than he could have ever imagined, and he wavered near the end of his leadership in his commitment to radical democratic reform.³⁸⁹ Nevertheless, during the failed coup of August 1991—with his closest advisors betraying him—Gorbachev never wavered in his commitment to the rule of law.³⁹⁰ As the Soviet Union dissolved in the following months, Gorbachev acknowledged his many mistakes, but highlighted his monumental achievements: “the ending of the Cold War, the liquidation of the ‘totalitarian system,’ the break-through to democratic reforms, the recognition of . . . human rights, and movement towards a market economy,” with those same reforms ultimately leading to his own political downfall.³⁹¹

In 1993, Mandela and de Klerk shared the Nobel Peace Prize for their work in the peaceful transition of South Africa into a fully democratic state. In the face of violent opposition from the black left and the white right in South Africa, Mandela and de Klerk successfully negotiated a new provisional constitution and set a date the following year for general elections based on majority rule.³⁹² As the Nobel Committee emphasized:

The two Prize-Winners, from their highly disparate points of departure, the one from the side of the oppressors and the other from the side of the oppressed, have taken initiatives to break the vicious circle that their country was caught up in. These are initiatives the world has taken note of, initiatives which reflect personal integrity and great political courage on the part of both men.³⁹³

A few months later in his Inaugural Address as the new President of South Africa, Mandela paid tribute to de Klerk, declaring:

We deeply appreciate the role the masses of our people and their political . . . [and other] leaders have played to bring about [the

388. Anderson, *supra* note 385, at 273.

389. See generally BROWN, *supra* note 387, at 155–211, 269–85.

390. GORBACHEV, *supra* note 386, at 631–41; REMNICK, *supra* note 280, at 453–90.

391. BROWN, *supra* note 387, at 304–05.

392. See ANTHONY SAMPSON, MANDELA: THE AUTHORIZED BIOGRAPHY 449–86 (1999).

393. Francis Sejerstad, Nobel Committee Chairman, Presentation Speech for Nobel Laureates Nelson Mandela and F.W. de Klerk (Dec. 10, 1993), in 6 NOBEL LECTURES, PEACE 1991–1995, *supra* note 379, at 59, 61, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1993/presentation-speech.html.

end of apartheid] Not least among them is my Second Deputy President, the Honourable F.W. de Klerk. . . . The time for the healing of the wounds has come. The moment to bridge the chasms that divide us has come. The time to build is upon us. We have, at last, achieved our political emancipation.³⁹⁴

Finally, in 2000 Kim was honored for the democratic revolution he fostered in South Korea. Comparing Kim to other transformational leaders such as Mandela, Gandhi, and Suu Kyi, the Nobel Committee recognized his election as President of South Korea in 1997 as “definitive proof that South Korea had at long last found a place among the world’s democracies.”³⁹⁵ As the Committee noted, Kim transformed South Korea by helping it to embrace democracy, accept human rights, and promote reconciliation with North Korea.³⁹⁶ But the selection of Kim had a broader purpose: affirming the universality of democracy and human rights.³⁹⁷ In his Nobel lecture, Kim refuted those who would argue that Western-style democracy and human rights are inappropriate for Asia.³⁹⁸ Speaking in the midst of the Asian economic crisis, Kim linked democratic values with free market economies:

[D]emocracy is the absolute value that makes for human dignity, as well as the only road to sustained economic development and social justice. Without democracy the market economy cannot blossom, and without market economics, economic competitiveness and growth cannot be achieved. A national economy lacking a democratic foundation is a castle built on sand.³⁹⁹

The message for Asia was clear: its embrace of free market economics was not complete until it also accepted democracy and human rights.⁴⁰⁰

394. Nelson Mandela, Inaugural Address (May 10, 1994), at <http://www.anc.org.za/ancdocs/history/mandela/1994/inaugpta.html>.

395. Gunnar Berge, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Kim Dae-jung (Dec. 10, 2000), in 7 NOBEL LECTURES, PEACE 1996–2000, *supra* note 380, at 151, 151, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/2000/presentation-speech.html.

396. *See id.*

397. *See id.* (discussing challenges to the universality of human rights and democracy).

398. Kim Dae-jung, Nobel Lecture (Dec. 10, 2000), in 7 NOBEL LECTURES, PEACE 1996–2000, *supra* note 380, at 159, 159, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/2000/dae-jung-lecture.html.

399. *Id.*

400. *See* PAUL CLOSE & DAVID ASKEW, ASIA PACIFIC AND HUMAN RIGHTS: A GLOBAL POLITICAL ECONOMY PERSPECTIVE, 12–31 (2004); Kim Dae-jung, *Democracy and the Market Economy: Two Wheels of a Cart*, in DEMOCRACY, MARKET ECONOMICS, AND DEVELOPMENT: AN ASIAN PERSPECTIVE 1–6 (Farrukh Iqbal & Jong-Il You eds., 2001).

The third group of democracy champions includes those individuals who used their personal influence to promote democracy. In many respects, these Laureates were chosen as seeds to encourage democracy to flower in regions where it has struggled to take root.

Central America in the 1980s was plagued by military conflicts. Costa Rican President Sánchez played the decisive role in brokering peace in the region. His 1987 peace plan—signed by El Salvador, Guatemala, Nicaragua, Honduras, and Costa Rica—paved the way for lasting peace in Central America, the agreement “envisaged cease-fires, national reconciliation, and progress toward democratization *within* each country.”⁴⁰¹ Sánchez’s 1987 award marked the beginning of the Democracy Period, and the Nobel Committee used it unequivocally to express its commitment to democracy as an indispensable ingredient for peace: “Democracy is, in contrast to totalitarian regimes, dependent on support from the people. . . . Peace will be realised if democracy is realized. . . . [T]he growth of a government by the people . . . is, in Central America as elsewhere, one of the keys to peace.”⁴⁰²

Another region where democracy continues to struggle is in the Middle East. The most recent democracy Laureate is 2003 winner Shirin Ebadi, whose award symbolizes the campaign for democracy and human rights in that region. In choosing Ebadi, the Nobel Committee sought to emphasize the compatibility of democracy and human rights with Islam. Although Ebadi is best known as a human rights lawyer, the Nobel Committee focused on her democratic credentials:

It is fundamental to her view that the supreme political power in a community must be built on democratic elections. . . .

. . . .
 . . . [W]e hope the Prize will be an inspiration for all those who struggle for human rights and democracy in her country, in the Moslem world, and in all countries where the fight for human rights needs inspiration and support.⁴⁰³

Thus, the focus on democratic rights in Iran amplified a larger concern about democratic rights in the Muslim world. In her Nobel lecture, Ebadi challenged “despotic governments” in the Middle East that maintain that democracy and human rights are not compatible with Islamic

401. HELENA COBBAN, *THE MORAL ARCHITECTURE OF WORLD PEACE: NOBEL LAUREATES DISCUSS OUR GLOBAL FUTURE* 151–52 (2000).

402. Aarvik, *supra* note 355, at 190–91.

403. Press Release, Norwegian Nobel Committee, The Nobel Peace Prize 2003 (Oct. 10, 2003), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2003/press.html.

teachings and traditions.⁴⁰⁴ Her message is that democracy and human rights are central to all societies, including Islamic ones.⁴⁰⁵

B. The Rule of Law Exemplars

In addition to the democracy advocates, the Democracy Period is punctuated by some Laureates who are recognized as exemplars of the international rule of law. This category includes Kofi Annan and the United Nations, the UN Peacekeeping Forces (UNPF), the International Atomic Energy Agency (IAEA), and Jimmy Carter. In many respects, this category of Laureates fulfills the early Laureates' vision of international cooperation and organization. Whereas the early twentieth century highlighted concern for "the juridical organization of international life,"⁴⁰⁶ through the progressive development of law and institutions, the dawn of the twenty-first century was occasion to celebrate significant progress toward establishing an international rule of law.

These Laureates are not advancing new ideas about specific international norms. Instead, they are promoting a meta-norm about the international rule of law. This concept represents an amalgamation of numerous international institutional and substantive norms that may be described collectively as an international legal regime.

The most important example of this perspective comes from the centennial award to Annan and the United Nations in 2001. The Nobel Committee emphasized that over the past century "the main theme in the history of the Peace Prize has been the wish for a better organized and more peaceful world."⁴⁰⁷ Given that goal, it is difficult not to appreciate the remarkable development of the past century, beginning with "the scattered and rather private peace initiatives at the previous turn of the century to the ever stronger and more efficient United Nations we have today."⁴⁰⁸

Annan's Nobel lecture focused on the growing importance of global governance:

[T]his era of global challenges leaves no choices but cooperation at the global level. When States undermine the rule of law and

404. Shirin Ebadi, Nobel Lecture (Dec. 10, 2003), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2003/elbadi-lecture.html.

405. *Id.*

406. Renault, *supra* note 61, at 145.

407. Gunnar Berge, Nobel Committee Chairman, Presentation Speech for Nobel Laureates Kofi Annan and the United Nations (Dec. 10, 2001), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2001/presentation-speech.html.

408. *Id.*

violate the rights of their individual citizens, they become a menace not only to their own people, but also to their neighbors, and indeed the world. What we need today is better governance—legitimate democratic governance that allows each individual to flourish, and each State to thrive.⁴⁰⁹

He also discussed international issues that require closer cooperation, including apartheid, conflict prevention, democracy, disease prevention, genocide, human rights, minority rights, poverty, and terrorism.⁴¹⁰

If there is a unifying norm animating Annan's understanding of the international rule of law, it would be that it exists to serve not just states, but their citizens as well—a bold expansion of the concept of world order. Annan repeatedly underscored that beneath the surface of states rests the fate of individual people in need. "Answering their needs," he concluded, "will be the mission of the United Nations in the century to come."⁴¹¹

Whether this is a veiled attempt to weaken state sovereignty is debatable, but it certainly elevates the status of the individual vis-à-vis international organizations. If the essential mission of the United Nations is to serve, protect, and defend the individual, then what does one make of the jurisdictional limitation in Article 2(7) of the UN Charter, which provides that "[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state"?⁴¹² Annan appears to be arguing that states and international organizations enjoy concurrent jurisdiction over a vast range of matters affecting the general welfare of individuals. At a minimum, Annan's normative point is that the United Nations has become an international legal regime and is no longer a grand power alliance between states (if it ever was).⁴¹³

The 1998 award to the UNPF and the 2005 award to the IAEA raised similar institutional themes of the centrality of the United Nations for promoting the international rule of law. In honoring the IAEA, the Nobel Committee stated that "again and again" it has "stressed the need for a better organized world."⁴¹⁴ It went on: "The IAEA is very much a part

409. Kofi Annan, Nobel Lecture (Dec. 10, 2001), at http://www.nobelprize.org/nobel_prizes/peace/laureates/annan-lecture.html.

410. *Id.*

411. *Id.*

412. U.N. Charter art. 2, para. 7.

413. *See supra* notes 203–06 and accompanying text.

414. Ole Danbold Mjøs, Nobel Committee Chairman, Presentation Speech for Nobel Laureates IAEA and Mohamed ElBaradei (Dec. 10, 2005), at http://www.nobelprize.org/nobel_prizes/

of the UN system and consequently belongs under this most distinct of all headings in the history of the Peace Prize.”⁴¹⁵

Likewise, the Nobel Committee presented the award to the UNPF by emphasizing that the United Nations can and should serve as

an active instrument in the fight for peace, a focus for international law and human rights, and a forum for the development of inter-racial understanding. . . . It becomes clearer and clearer that what has to be done to secure the future for new generations has to be done together. Our determination has to be channeled into the United Nations. This is the best hope for the future of the world—indeed its only hope!⁴¹⁶

These awards reflect a vision of the international rule of law from a distinctly institutional perspective. Contrast that view with the award to Carter in 2002, when he was honored for his efforts to “find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development.”⁴¹⁷ This award thus was unusual in that it reflected Carter’s contribution to “practically all the areas that have figured most prominently through the one hundred and one years of Peace Prize history.”⁴¹⁸ In his Nobel lecture, Carter spoke about the international rule of law, but with far less emphasis on international institutions:

I am not here as a public official, but as a citizen of a troubled world who finds hope in a growing consensus that the generally accepted goals of society are peace, freedom, human rights, environmental quality, the alleviation of suffering, and the rule of law. During the past decades, the international community, usually under the auspices of the United Nations, has struggled to negotiate global standards that can help us achieve these essential goals.⁴¹⁹

[peace/laureates/2005/presentation-speech.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/2005/presentation-speech.html).

415. *Id.*

416. Egil Aarvik, Nobel Committee Chairman, Presentation Speech for Nobel Laureate UN Peacekeeping Forces (Dec. 10, 1988), in 5 NOBEL LECTURES, PEACE 1981–1990, *supra* note 271, at 211, 215, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1988/presentation-speech.html.

417. See Gunnar Berge, Nobel Committee Member, Presentation Speech for Nobel Laureate Jimmy Carter (Dec. 10, 2002), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2002/presentation-speech.html.

418. *Id.*

419. Jimmy Carter, Nobel Lecture (Dec. 10, 2002), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2002/carter-lecture.html.

Unlike that of Annan, Carter's focus was on the international rule of law as a realization of substantive global standards, rather than an institutional orientation toward better global governance under the auspices of the United Nations.

These divergent approaches underscore different understandings that attach to concepts of the international rule of law. Promoting the international rule of law may or may not necessitate aggrandizement of power and control to a centralized authority such as the United Nations. Indeed, recent decades have seen international institutions outside the United Nations architecture proliferate and thrive. A more accurate picture of the international landscape recognizes that global governance has become decentralized, with different organizations assisting the international community in pursuing common interests.

"Centralization is controversial, politically and conceptually, because it touches so directly on national sovereignty. . . . [States] strongly resist any shift of sovereign responsibilities to superordinate bodies."⁴²⁰ Consequently, states often collectively pursue common purposes by custom designing international institutions to advance their joint interests.⁴²¹ This partly explains the proliferation of international organizations tailored to special needs of member states. The competing view, apparently espoused by the Nobel Committee, is that promoting the international rule of law requires embracing the centralization of power. It has repeatedly honored individuals and agencies connected with the United Nations,⁴²² but it has never recognized the efforts of other deserving international organizations such as the World Bank, the International Monetary Fund, the World Trade Organization, or the Organization of American States.

C. *The Civil Society Diplomats*

The last category of Laureates in the Democracy Period addresses the expanding role of civil society and the "new diplomats." This category includes Jody Williams and the ICBL, Wangari Maathai, and Al Gore and the Intergovernmental Panel on Climate Change (IPCC).

A handful of Laureates highlight the increasing role of a global civil society in the establishment of international norms. What some scholars

420. Barbara Koremenos et al., *The Rational Design of International Institutions*, 55 INT'L ORG. 761, 771 (2001).

421. *Id.* at 781.

422. These Laureates include Hull, Orr, Bunche, Jouhaux, UNHCR, Pearson, Noel-Baker, Hammarskjöld, UNICEF, ILO, UNPF, the United Nations, Annan, IAEA, and ElBaradei.

label “transnational advocacy networks,” which includes NGOs and other actors, are “bound together by shared values, a common discourse, and dense exchanges of information and services.”⁴²³ They are dramatically shaping the content of international law and the process of international lawmaking.⁴²⁴ These networks are emerging as a critical part of a “disaggregated democracy” that embraces a horizontal conception of self-governance produced through the interaction of individuals and groups in public and private fora.⁴²⁵

The most important example of this category is the 1997 award to Williams and the ICBL. The movement to ban landmines began in September 1991 with NGOs. It soon grew as individual countries agreed to a moratorium on landmine production. In 1996, the NGOs partnered with the Canadian government to draft a treaty to ban landmines. These negotiations were noteworthy because only countries interested in a positive outcome were invited, the ICBL participated in the negotiations and no state received a veto in drafting the treaty.⁴²⁶

The work of the ICBL and Williams represents one of the most important trends in international lawmaking.⁴²⁷ This cooperative approach between like-minded governments and global civil society has come to be known as the “Ottawa Process.”⁴²⁸ As the Nobel Committee noted:

[P]ublic opinion must be formed and directed by the active involvement of individual members . . . in society’s manifold organizations or associations. These are the fundamental institutional elements of what we have learned to know as a civil society. . . . [I]n the extensive cooperation . . . between . . . non-governmental organizations, . . . national governments, and the international political system . . . we may be seeing the outline of

423. KECK & SIKKINK, *supra* note 6, at 2. For a concise summary of Keck and Sikkink’s approach to transnational advocacy networks, see Anne-Marie Slaughter, *International Law and International Relations*, 285 RECUEIL DES COURS 13, 105–12 (2000).

424. See, e.g., JOSÉ ALVAREZ, *INTERNATIONAL ORGANIZATIONS AS LAW-MAKERS* (2005); Steve Charnovitz, *Nongovernmental Organizations and International Law*, 100 AM. J. INT’L L. 348 (2006).

425. Anne-Marie Slaughter, *Global Government Networks, Global Information Agencies, and Disaggregated Democracy*, 24 MICH. J. INT’L L. 1041, 1071–73 (2003).

426. See STIEHM, *supra* note 111, at 170.

427. See MAXWELL A. CAMERON ET AL., *TO WALK WITHOUT FEAR: THE GLOBAL MOVEMENT TO BAN LANDMINES* (1998).

428. The “Ottawa Process” has three elements: (1) a partnership between states and global civil society in the conduct of international diplomacy; (2) the practice of bringing small- and medium-sized states into a coalition of the like-minded; and (3) a willingness to operate outside of the normal channels and fora on a diplomatic “fast track” to achieve the desired objective. See CAMERON ET AL., *supra* note 427, at 445 n.1.

. . . a global civil society.⁴²⁹

Of course, the notion of civil society as a key participant in the drafting of treaties is not new.⁴³⁰ Jouhaux was an early example of a labor leader participating in treaty drafting that led to the creation of the ILO as part of the League of Nations.⁴³¹ What is new is that NGOs now have a seat at the table. They not only participate in international political agendas “but also shape them.”⁴³² They are involved at every stage of the process, including raising awareness, setting diplomatic agendas, coordinating governmental conferences, preparing and drafting treaties, and lobbying for treaty ratification.⁴³³ This approach has succeeded with various environmental treaties, the campaign to ban landmines, and the ICC. At the current stage of international lawmaking, “NGOs have worked their way into the heart of international negotiations and into the day-to-day operations of international organizations”⁴³⁴

The 2004 award to the Kenyan environmentalist Maathai is the most unusual example of a civil society Laureate. Maathai was recognized for establishing creative connections between democracy, human rights, and sustainable development.⁴³⁵ Maathai was a leader of a grassroots movement that challenged deforestation and urban development in Kenya; he was a civil society leader who mobilized and empowered “thousands of ordinary citizens . . . to take action and effect change.”⁴³⁶ Maathai’s message to her fellow Kenyans was that through citizen activism “they realize their hidden potential and are empowered to overcome inertia and take action.”⁴³⁷ In other words, democracy is not realized until it is internalized by the citizens of that democracy.

One can also view Maathai’s work as a paradigmatic example of the power of transnational advocacy networks. When her efforts to chal-

429. Francis Sejersted, Nobel Committee Chairman, Presentation Speech for Nobel Laureates ICBL and Jody Williams (Dec. 10, 1997), in 7 NOBEL LECTURES, PEACE 1996–2000, *supra* note 380, at 53, 54–55, available at http://www.nobelprize.org/nobel_prizes/peace/laureates/1997/presentation-speech.html.

430. See KECK & SIKKINK, *supra* note 6, at 39–78; Steve Charnovitz, *Two Centuries of Participation: NGOs and International Governance*, 18 MICH. J. INT’L L. 183 (1997).

431. See *supra* notes 218–23 and accompanying text.

432. KECK & SIKKINK, *supra* note 6, at 4.

433. Jessica T. Mathews, *Power Shift*, FOREIGN AFF., Jan.–Feb. 1997, at 50, 53 (1997).

434. *Id.* at 56.

435. Ole Danbold Mjøs, Nobel Committee Chairman, Presentation Speech for Nobel Laureate Wangari Maathai (Dec. 10, 2004), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2004/presentation-speech.html.

436. Wangari Maathai, Nobel Lecture (Dec. 10, 2004), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2004/maathai-lecture.html.

437. *Id.*

lenge urban development were stalled, Maathai sought and secured support from international allies. These allies, especially international environmental NGOs, used their connections with Western governments and international financial institutions to pressure the Kenyan government to scale back or alter dramatically its plans.⁴³⁸ In so doing, Maathai employed what theorists Margaret Keck and Kathryn Sikkink describe as the transnational “boomerang pattern,” leveraging the power of international networks to bring pressure to bear on her own government.⁴³⁹ Her approach demands domestic enforcement of international norms through pressure from global civil society networks. As Maathai stated in her Nobel lecture, there is a “need to galvanise civil society . . . to catalyze change. I call upon governments to recognize the role of these social movements in building a critical mass of responsible citizens, who help maintain checks and balances in society.”⁴⁴⁰

Finally, the 2007 Nobel Peace Prize awarded to former U.S. Vice President Gore and the IPCC again highlights the role of global civil society in promoting international norms. In presenting the prize to Gore and the IPCC, the Nobel Committee stated that Gore was “the single individual who has done most to prepare the ground for the political action that is needed to counteract climate change. . . . [Today he is] the world’s leading political spokesman on the environment.”⁴⁴¹ In his Nobel lecture, Gore emphasized, “We must abandon the conceit that individual, isolated, private actions are the answer. . . . That means adopting principles, values, laws, and treaties that release creativity and initiative at every level of society in multi-fold responses originating concurrently and spontaneously.”⁴⁴² Gore called for a treaty imposing a universal global cap on emissions and using the emissions trading market to allocate resources efficiently.⁴⁴³

The award to Gore and the IPCC represents the latest example of global civil society working with governments to establish international norms limiting the use of technologies that threaten human life and security. The role of civil society diplomats working together with the

438. See STIEHM, *supra* note 111, at 208–12; Jane Perlez, *Skyscraper’s Enemy Draws a Daily Dose of Scorn*, N.Y. TIMES, Dec. 6, 1989, at A4.

439. KECK & SIKKINK, *supra* note 6, at 12–13, 146–47.

440. Maathai, *supra* note 436.

441. Ole Danbold Mjøs, Nobel Committee Chairman, Presentation Speech for Nobel Laureates IPCC and Al Gore (Dec. 10, 2007), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2007/presentation-speech.html.

442. Al Gore, Nobel Lecture (Dec. 10, 2007), at http://www.nobelprize.org/nobel_prizes/peace/laureates/2007/gore-lecture.html.

443. *Id.*

IPCC, a classic transgovernmental network, has been critical in advancing a tipping point in favor of an international norm to combat global warming.⁴⁴⁴ By anointing Gore as the leader of the global warming transnational advocacy network, the Nobel Committee hoped to alter public opinion worldwide, especially in countries, such as the United States and China, that must accept the norm for the effort to be successful.⁴⁴⁵

The civil society diplomat is a new and controversial figure in the international landscape. As Williams noted, government officials around the world are concerned that this new diplomacy has succeeded because it disrupts the traditional process of treaty making, threatens their jobs, and challenges the way government does business.⁴⁴⁶ Civil society diplomats directly challenge the statist, centralized institutional approach to lawmaking. The result may even be called a “democratization of foreign policy.”⁴⁴⁷ These civil society diplomats present a vexing new challenge to sovereignty. In the recent past, sovereignty has been diluted in the substantive ends pursued, such as in international human rights. But now sovereignty is being challenged in the legislative means employed, with the international lawmaking process subject to demands for participatory democratization.

D. Norm Evolution in the Democracy Period

Of the thirty-two recipients of the Nobel Peace Prize in the Democracy Period, thirty-one gave Nobel lectures.⁴⁴⁸ The most common themes during this period were as follows:

1. Democracy (89%)
2. Poverty (74%)
3. United Nations (70%)
4. Environment (67%)
5. Human Rights (63%)
6. Technology (59%)
7. International Economics (55%)
7. Organized Religion (55%)

444. See Kal Raustiala, *The Architecture of International Cooperation: Transgovernmental Networks and the Future of International Law*, 43 VA. J. INT'L L. 1 (2002).

445. Mjøs, *supra* 441.

446. COBBAN, *supra* note 401, at 218.

447. CAMERON ET AL., *supra* note 427, at 424–44.

448. The Burmese government prohibited Suu Kyi from traveling to Oslo to give a Nobel lecture.

9. Disarmament (48%)
10. Science (44%)
10. Rights of the Child (44%)

As for the evolution of international norms in the Democracy Period, the most important in the post-Cold War era was recognition that the democratic form of government is an indispensable step toward guaranteeing the broader goals of peace and human rights. Indeed, the concept of democratic entitlement is the defining feature of the current period, with two out of three countries now electoral democracies, compared with only one in four thirty years ago.⁴⁴⁹

Franck has argued that “[t]his almost-complete triumph of the democratic notions of Hume, Locke, Jefferson and Madison . . . may well prove to be the most profound event of the twentieth century and, in all likelihood, the fulcrum on which the future development of global society will turn.”⁴⁵⁰ According to Franck, the right to democracy is an important subsidiary of the community’s most important norm of peace. But it also directly relates to human rights, for to pursue democracy is to pursue the creation of a system of government in which all individuals assume responsibility for shaping the civil society in which they live and work.⁴⁵¹ The emergence of this democratic entitlement now enjoys such a high degree of legitimacy that the norm has cascaded to the point that the international community now “vigorously asserts that *only* democracy validates governance.”⁴⁵²

The norm of global cooperation in pursuit of the international rule of law is now well-accepted, although debate over the structure of cooperation continues. The Nobel Committee appears to prefer strongly a centralized international architecture with the United Nations at the center. This is curious, for it comes at precisely the moment in history when international institutional pluralism is at its zenith. The proliferation of international institutions strongly supports a shared commitment to the norm of global cooperation, but not necessarily through the UN system. Perhaps in the age of globalization there is no longer a question of whether to cooperate, but only how best to cooperate in pursuit of common interests and the international rule of law.

449. CHARLES W. KEGLEY, JR., *WORLD POLITICS: TREND AND TRANSFORMATION* 413 (11th ed. 2008).

450. Franck, *supra* note 99, at 49.

451. *Id.* at 79–80, 87–90.

452. *Id.* at 47.

The other notable emerging norm in the Democracy Period is the expanding role of civil society in the process of international lawmaking. The emerging role for civil society now includes setting the international agenda, providing policy advice and information to governments, influencing international negotiations, monitoring government action, and assisting in the process of implementation.⁴⁵³ The Ottawa Process has been replicated in other contexts, including the drafting of the Rome Statute establishing the ICC⁴⁵⁴ and the current negotiations to address global warming. This emerging structural norm is trans-substantive, and has the potential to alter the means by which international law is made. While this norm has not yet reached a tipping point, one can envision a day soon in which this new process of international lawmaking will be the rule rather than the exception.

CONCLUSION

“The core debate now animating the field [of international relations] revolves around the nature of social agency.”⁴⁵⁵ This focus on agency has sparked renewed interest in international history. “[T]he constructivist interest in the particularities of culture . . . and experience [has] created space for a renaissance in the study of history and world politics. If ideas, norms, and practices matter, and if they differ from one social context to another, then history in turn matters.”⁴⁵⁶

This Article accepts the constructivist contribution that the history of international law matters. That history can be told in any number of ways. This Article presents the story of international law from the perspective of elite norm entrepreneurs. It accepts constructivism as a legitimate theory for understanding international relations and highlights how Laureates have served as agents in pursuit of the international rule of law. It has focused less on how state actors come to accept international norms,⁴⁵⁷ and more on the antecedent question of how social agents facilitate the emergence, cascading, and internalization of norms.

453. Cf. Kal Raustiala, *States, NGOs, and International Environmental Institutions*, 41 INT’L STUD. Q. 719 (1997) (arguing that NGOs increasingly perform these roles in the environmental law context).

454. Rome Statute, *supra* note 98.

455. Christian Reus-Smit, *Constructivism*, in SCOTT BURCHILL ET AL., THEORIES OF INTERNATIONAL RELATIONS 188, 202 (3d ed. 2005).

456. *Id.* at 206–07.

457. See Paul Schiff Berman, *A Pluralist Approach to International Law*, 32 YALE J. INT’L L. 301, 311–12 (2007).

Each period in the history of modern international law has had a different narrative. The Pacifist Period before the First World War began with a vision of the abolition of war and the peaceful settlement of international disputes. The Statesman Period between the First and Second World Wars built on that foundation with fragile institutions, imperfectly constructed to secure and maintain international peace and security. It also saw the emergence of more lasting international norms combating the unlawful use of force. The Humanitarian Period established a more effective international architecture and crystallized international humanitarian norms regarding the use of force. During the Human Rights Period, the protection of the individual became one of the central pillars of international law. This development became an existential moment in the history of international law, forcing states to reflect anew on the traditional notions of national sovereignty. Finally, the Democracy Period witnessed the triumph of democracy at the end of the Cold War, with widespread recognition that democracy was the only suitable form of government for realizing deeper yearnings of international peace and justice.

As noted at the outset, this Article is part of a larger project that will analyze the Nobel Peace Prize's role in the evolution of international norms. For the first time in scholarly literature, this project considers the development of international law from the perspective of the Nobel Peace Prize. The history of international law reveals that "international norms [did] not just appear out of thin air."⁴⁵⁸ Norm entrepreneurs actively helped construct them norm by norm, year by year, based on their vision of the requirements of international relations.

As will be discussed in greater detail in subsequent work, examining the history of international law from the perspective of Nobel Peace Prize Laureates provides support for numerous assumptions flowing out of a constructivist theory of international relations. First, history confirms that international norms have a life cycle. Again and again, we see norms emerging, cascading, and becoming internalized. In some cases, that evolutionary process is exceedingly fast, as with the international campaign to ban landmines. In other cases, the evolutionary cycle is much slower, as with efforts to promote international human rights. Occasionally, a norm progresses through its full life cycle and then essentially dies in order to give birth to a superior norm, such as when interstate arbitration succeeded for a season and then gave way to a permanent international judiciary. And in some cases, a norm emerges

458. Finnemore & Sikkink, *supra* note 4, at 896.

but never reaches the tipping point of a norm cascade, such as with the unsuccessful efforts to abolish war.

Second, norm entrepreneurs are critically important for the success of international norms. Norm entrepreneurs dramatically impact every stage of the norm life cycle, from its initial emergence to its habituation within international society. The brief history presented in this Article has presented dozens of examples in which norm entrepreneurs have facilitated the emergence of new international norms. It also has shown numerous examples in which entrepreneurs have been instrumental in fostering a norm cascade, particularly when the entrepreneurs are promoting the norm from a position of authority within state governments or international institutions. In other cases, transnational advocacy networks have been the organizational platform for achieving a norm cascade. Norm entrepreneurs also employ their influence to pursue the final stage in the norm life cycle, the internalization of international norms. These Laureates help to habituate international norms through informal mechanisms such as socialization, as well as formal mechanisms such as treaties, institutions, and international bureaucracies. Once a norm has been internalized, norm entrepreneurs shift their focus elsewhere, leaving to others gifted with compliance capabilities to ensure maintenance of the norm.

In the end, this project seeks to promote closer coordination between international law scholars and international relations theorists. Norms have always been the animating force of international law. But with the return of norms as the central focus of international relations, examining the history of international law from a constructivist perspective provides an opportunity for fruitful dialogue between disciplines about the nexus between international law and politics.