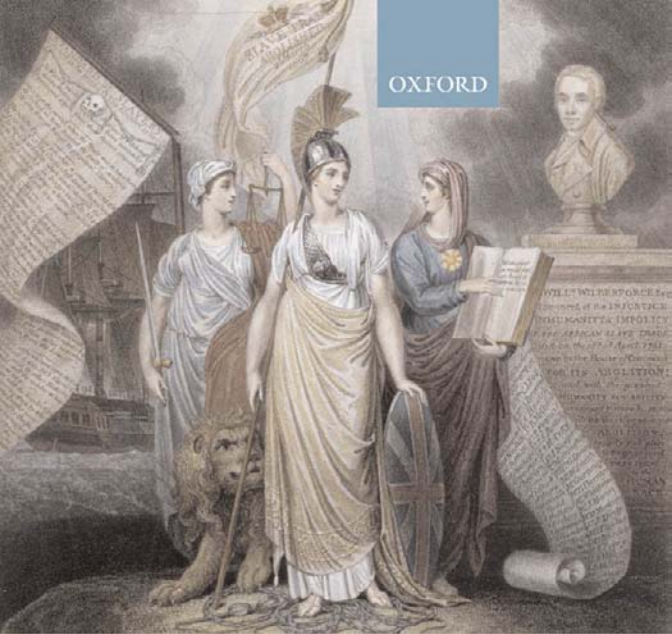


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IAN CLARK

*International Legitimacy and World Society*

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*By PRINCE WILLIAM  
ABOLITION  
Royal Highness's*



*FREDERIC, Duke of  
the SLAVE TRADE  
Much obliged Humble Servant*

*... of Slaves, holding a banner ... the Abolition ... and attending to the voice of Justice ...  
... and the Standard in which is inscribed the suffering of the Slaves, and on the right is a Boat of ...  
... the original ... of the ... of ...*

INTERNATIONAL LEGITIMACY AND WORLD SOCIETY

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# International Legitimacy and World Society

IAN CLARK

**OXFORD**  
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## Preface

Once more, I have found myself in the situation of having begun to write a new book, even before I had completed the previous one. It had originally been the intention that my *Legitimacy in International Society* (2005) should conclude with a chapter that opened up the subject of international legitimacy to influences extending beyond international society: it was to end on its exposure to world society. However, it soon became apparent that this dimension could not be adequately considered in a single chapter, and really deserved a book-length treatment of its own. For that reason, it was held over, and now forms the perspective of the present book. What this history of the evolution of the project confirms, however, is the very intimate connection between the subject matter of the two volumes. Although each stands alone, in combination they offer a more rounded treatment of the highly important topic of international legitimacy.

As always, a number of major debts have been incurred in the process. I was fortunate to benefit from a sabbatical during 2005–6, and am grateful both to the Department of International Politics, and the University of Wales Aberystwyth, for this period of leave. This made the writing of the book possible. A number of colleagues have generously read, and commented upon, draft chapters of the book, and I am pleased to acknowledge the important contribution that they have made. These include the readers appointed by Oxford University Press. In addition, I particularly want to thank Tim Dunne, Andrew Linklater, Shogo Suzuki, and Nick Wheeler. While I have been working on this book, I was simultaneously involved in a collaborative project with Chris Reus-Smit on ‘resolving international crises of legitimacy’. We held two workshops with our team (Mlada Bukovansky, Tim Dunne, Robyn Eckersley, Ian Hurd, Paul Keal, Justin Morris, Richard Price, Len Seabrooke, and Nick Wheeler). Although this developed a quite distinct line of analysis, participation in that project undoubtedly enriched my understanding of international legitimacy in many ways, and I wish to thank all the participants for the intellectual stimulation they provided. I was also able to try out some preliminary ideas for the book at the conference on ‘Reconsidering Legitimacy’, held at the University of Bremen in November 2005. I express my appreciation to the organizers (Patrizia Nanz, Frank Nullmeier, Achim Hurrelmann, Steffen Schneider, and Jens Steffek) for their kind invitation to deliver a paper, and to the very helpful suggestions made by a number of participants, but especially Jens Steffek, Rodney Barker, Shane Mulligan, and George Klosko.

Once again, it is my happy duty to convey my warmest thanks to Dominic Byatt at Oxford University Press for being such an encouraging and supportive editor, and for showing such flexibility, as this book developed in some unanticipated directions.

Finally, as has been the case throughout my professional career, my biggest debt is to Janice. She has become accustomed to my distracted state when writing but, on this occasion, it coincided with an extended period of very heavy professional pressure of her own. Despite this, she demonstrated her usual resilience and forbearance, and so remains my essential writing partner.

I. C.

*Aberystwyth*

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# Introduction

There is a risk in the study of international relations that we take too much for granted: because things have happened in a certain way, we may not see any need to explain them. This taken-for-granted quality can even prevent us from expressing proper surprise at their occurrence. At the most basic level, this is a book that seeks to restore our sense of puzzlement about some of the behaviours of international society. The predominant image of international society has been as a limited enterprise, sustained for largely state-interested reasons; tautologically, states are its principal subjects of concern. On closer historical inspection, international society has actually embraced a number of fundamental norms that seem wholly inconsistent with such a reputation. That these norms have subsequently become more honoured in the breach should come as no great surprise; why the norms were adopted in the first place is a subject worthy of much closer investigation.

This is especially so with regard to one cluster of norms in particular. ‘The extension of international law from the exclusive rights of sovereign states towards recognising the rights of all individuals by virtue of their common humanity’, writes Dunne (2007), ‘is one of the most significant normative shifts in the history of world politics.’ He is moved to ask, ‘how do we explain this transformation?’ This is the puzzle that lies at the heart of the following study. In addressing it, the book helps us rethink the relationship between international and world society. On the one hand, there are many who dismiss the theoretical value of any concept of world society. On the other, there are those who write openly about the potential transformation from an international to a world society (Vincent 1986; Buzan 2004; Williams 2005). The present work seeks a *via media* that takes world society seriously in historical terms, without subscribing to any imminent structural transformation of this latter kind.

My previous work in this area (Clark 2005) attempted to trace the development of practices of legitimacy within the bounds of international society. For reasons of cohesion, there were compelling reasons for keeping it self-contained in this way, and for treating international society as the official face of the states system. The purview of the book, accordingly, was how

certain principles came to enshrine a consensus position within the context of the great international peace settlements of the modern age. The danger with this approach, of course, was that the argument might be thought to convey a notion of international society as hermetically sealed off from other social influences. International society has, in fact, never been autonomous in this way. Politically and normatively, it has been buffeted by forces that are much more complex and diverse. Accordingly, whereas that earlier argument was concerned with how various norms had impacted upon evolving notions of legitimacy, it was relatively silent on the *source* of these norms, and *how* international society came to subscribe to these in preference to others. This book seeks to develop the missing dimension of that earlier discussion.

Let us briefly illustrate the general nature of this puzzle about international society. Early in the nineteenth century, the British government took a number of steps, acting on the opportunity presented by the peace settlement at the end of the Napoleonic war, to institute international measures against the trade in slaves. It persuaded the major powers of the day to issue a Declaration in 1815 condemning that trade. Why did abolition of this trade come to be seen as being properly the business of international society at this time? Even if there were particular reasons for the British government to seek such a ban, and to wish for it to be enforced on an international basis, why then did the other principal members of international society agree to such a normative initiative?

Similar questions can be asked about the attempted introduction of other new international norms over the last two centuries. Why was international society minded to listen to the demands of the 'public conscience', especially over the regulation of warfare, in the agreements reached at The Hague at the turn of the nineteenth and twentieth centuries? Why, in 1919, did international society agree to incorporate into the peace treaties a whole section on social justice, providing moral and institutional support for the international regulation of labour? Why, for that matter and at the same time, did international society fail to include any affirmation of racial equality in the Covenant composed for the new League of Nations? Why, in 1945, did the final version of the UN Charter include a much bolder and higher profile series of statements about human rights than had been initially envisaged only a few months earlier? Why, in 1990 at the end of the Cold War, was there a formal international declaration that, at least as far as Europe was concerned, international society would tolerate no form of government other than democracy? Each of these episodes reveals international society grappling with broad normative principles that, once adopted, held considerable potential to feed into future conceptions of international legitimacy, and so constrain future actions. What is so puzzling, given the common perception

of the limited purposes of international society, is why it has felt any great need to take a stance on these normative issues at all.

Each and every one of these cases raises rich historical questions about how principled ideas come to be established within international society. Specifically, they raise questions about motives: does international society respond to normative agendas only if there are self-interested reasons for doing so? They raise questions about the source of initiative: does the successful international adoption of a new norm require that there be a leading 'entrepreneur' to act as its sponsor? They raise questions about power: is a new norm more likely to be implanted successfully in international society if its sponsor happens to be a particularly powerful state?

There is, however, also a much wider agenda. What drives this book is the intuition that international society may not exercise full control over its own legitimacy agenda. This opens the possibility for the intervention of other social actors, and for alternative sources of normative ideas. In such a framework, all the above questions become much more complex. Questions about motives, initiative, and power need to be construed not solely within the parameters of the states system, but more generally to embrace the full range of social actors. The field of study broadens to include 'national and transnational organizations', as well as the interactions among societies themselves, in which the 'norms of dominant societies' come to be transmitted elsewhere (Nadelman 1990: 480).

Accordingly, this book tracks the interface between international legitimacy, conceived as part of international society, and a different social category that is often termed world society. In exploring this relationship, it seeks to answer two types of question. First, with regard to international legitimacy, what part has world society played in its prescription and evolution? Secondly, with regard to world society, to what extent can an investigation into its engagement with international society shed light upon its nature? It thus has a dual purpose: the study broadens out the search for the sources of international legitimacy, while at the same time it provides a tangible scheme for tracking the evolution of world society.

In so doing, the book seeks to make a contribution to a number of major topics within the literature of International Relations (IR). First, it has the intent of further expanding our understanding of international legitimacy, by including the search for its normative sources. Secondly, it represents an addition to the now substantial literature on the role and significance of international norms. Thirdly, it helps further clarify our understanding of the historical evolution of international society, and thus of its principal features. Fourthly, the particular perspective adopted in the book provides a means for putting some historical and theoretical flesh on what is otherwise often

regarded as the somewhat skeletal concept of world society. Putting the last two of these together, the book responds to the theoretical challenge that ‘the relationship between international society and world society requires further elaboration’ (Bellamy 2005c: 285).

As noted, the first major theme of the study attends to the unfinished business of my earlier work in this area. That volume observed of its international-society framework: ‘Although this survey has traced issues that have preoccupied the practitioners of international society . . . there has been no assumption that such encounters have been driven exclusively by sources within international society, so narrowly conceived. International society has always been porous . . . International society has been pushed and prodded by various facets of civil society throughout its history’ (Clark 2005: 246). This book is an attempt to substantiate that suggestion at length. Accordingly, its focus is upon the engagement between international society and a social entity to be called world society. The encounters that will be examined relate to the acceptance by international society of a series of new international norms. Historically, what contribution has world society made to their adoption?

Secondly, the book responds to the important work already undertaken on the subject of the role of international norms. It was fundamental to my earlier work that international legitimacy not be considered as identical to any particular international norm: it is rather the aggregate, or the equilibrium point, of the variety of norms that often pull in opposite directions. That said, the practices of legitimacy take place within an explicitly normative structure, and specific international norms become the dominant language through which the practice of international legitimacy is conducted. Accordingly, it is essential for any proper understanding of international legitimacy that it be located within this wider framework of international society’s adoption of new norms. How and when do such new norms come to be accepted?

Two decades ago, it was possible to conclude that ‘the dynamics by which norms emerge, evolve, and expand in international society have been the subject of strikingly little study’ (Nadelman 1990: 479). This is no longer the case, and there is by now a rich literature on this theme. Martha Finnemore’s work in the 1990s directed attention to the fact that ‘through an examination of justifications we can begin to piece together what those internationally held standards are and how they may change over time’ (Finnemore 1996a: 159). The idea that ‘norms mattered’ stimulated interest in the processes by which norms came to be successfully adopted. This was especially so with human rights norms that appeared to challenge the most basic principles of international society. It remained unclear why self-interested states should have signed up to norms of this kind at all, and that they did so contributed to the theoretical puzzle (Clark, A. M. 2001: 18–19). One solution was that the

normative driver was to be found outside international society, and so Clark turned her attention to NGOs operating in the human rights' field. 'NGOs, through deliberate social action', she suggested, 'build and shape norms, especially principled ones, that would be unlikely to emerge naturally out of state considerations of self-interest' (Clark, A. M. 2001: 138; Price 2003).

Similarly, Crawford (2002) sought to demonstrate how normative change at the international level reflected the course of ethical argument, going far beyond the world of state representatives and practitioners. This could have momentous consequences for state practice, as in her central suggestion: 'Colonialism did not just fade away; it became illegitimate' (Crawford 2002: 4). She claimed that 'mass beliefs influence elite decision-making behaviour by setting acceptability constraints'. Additionally, she emphasized the role of *organized* publics which, by 'deploying arguments based on principled beliefs', had the capacity to 'shape the political context or conditions of acceptability within which states and other social actors try to act' (Crawford 2002: 56–7). This is especially so in conditions of 'thick international institutions . . . and transnational advocacy networks' (Crawford 2002: 35). In these circumstances, nongovernmental transnational organizations have the capacity to act as 'transnational moral entrepreneurs' (Nadelman 1990: 482). The present study, accordingly, is interested in how principles of international legitimacy evolve over time, and in response to normative shifts in alternative social constituencies. Its focus is upon the changing parameters of international legitimacy, insofar as these may be traced back to sources in world society.

Nonetheless, at the end of the day, the major way that social norms come to be 'institutionalized' is through forms of state regulation, often international. It might even be hypothesized that, given the great diversity of social norms, it is a measure of their relative success that some achieve recognition and enforcement through the states system. By the same token, we are reminded how 'porous' is international society when we see its adoption of normative positions that cannot sensibly be explained by reference to the putative logic of international society alone. How and why is it, then, that international society comes to buy into aspects of a world-society agenda? It has been suggested that 'international society is a purposive entity, the normative content of which is, to a significant degree, determined by the great powers of the day' (Morris 2005: 280). Even if we accept the primacy of state agency implied in Morris's formulation of the issue, there remains his secondary question: 'What motivates the normative innovations they seek to introduce?' (Morris 2005: 268; Barnett and Finnemore 2004; Barnett and Duvall 2005b).

This opens up the third part of the book's agenda about the nature of international society itself. As is well known, and despite recent criticisms, representations of international society are commonly divided into pluralist

and solidarist forms (Wheeler 1992; Bellamy 2005b: 9–11), the former stressing the limited practical nature of the society, bounded by a strong sense of sovereignty, and the latter allowing for more ambitious purposive endeavours, resulting from an intensification of shared values. Whether international society should be labelled as one or the other is not susceptible to a purely theoretical answer, but must be the subject of proper historical investigation. By exploring some pivotal episodes in the development of international society since the beginning of the nineteenth century, the book sheds light on this troublesome question. From this perspective, a strong case can be made that, in responding to the English-School treatments of this debate, theorists of international society have not taken this history seriously enough. As will become very clear in the pages to follow, international society has periodically contemplated a number of international norms, and has actually endorsed a fair selection, that simply cannot be reconciled with the classical pluralist conception. This being so, we are led to pose two consequent questions. What does this tell us about international society, and why has international society sponsored norms that, on the face of it, are not part of its core ‘business’?

Fourthly, the book engages with our understanding of world society. In his major overview of this topic, Barry Buzan noted that the English-School’s discussion of world society ‘should be taken as the definition of a challenge’, since there is ‘interesting and important thinking to be done in working out just what world society does mean’ (2004: 62). This book responds to that challenge. The notion of world society is notoriously slippery, and there are many who doubt its utility as a serious social-scientific concept (Jackson 2000: 112). Part of its problem is that it is potentially too diffuse and amorphous, since it might be thought to extend to any form of social activity involving the billions of the earth’s inhabitants (Bellamy 2005c). Crucially, this study delimits the field, and offers the possibility of some empirical purchase, by restricting its scope specifically to world society’s interaction with international society, rather than attempting to set out any case more generally. Jackson is, at least in part, correct when he asserts that ‘insofar as the population of the world can express itself politically, it is only via the society of states’ (Jackson 2000: 112). As such, the interface between international and world society becomes a critical nodal point, and must be of particular interest to the student of IR.

This is not to suggest that there is any easy or absolute distinction to be made, in practice, between international and world society: both are analytical categories, based largely upon the nature of the units of which they are composed. International society, for the most part, is the realm of the governmental and the official: world society is the realm of the individual, of the non-official group or movement, and of the transnational network of nongovernmental agents. The edges between these conceptions are truly

fuzzy, and have become ever more so during the period covered by this study. However, far from presenting a convincing objection to the terms of this investigation, this fuzziness offers instead a convenient vindication of it. Although the two societies are treated as analytically separate, the historical interest of the project derives exactly from the extent to which they have become increasingly overlapping, both within a common field of political activity, and also within a network of shared normative obligations.

Any endeavour to *make sense* of world society is inherently ambivalent. It conveys both the scholarly observer's quest for any such meaningful category, and at the same time refers also to the participants' efforts to find or develop meaning of a social kind, in their dealings with other individuals and groups. In other words, the problem of meaning in world society is to be found at two levels: it is an analytical problem for the scholar to resolve, and also is a social process for the participant to engage. Succinctly stated, it is a key argument of the book that it is through the attempt to influence and re-shape the principles of legitimacy held within international society that world society comes closest to revealing some empirical reality, and a traceable history. In this process, world society becomes more meaningful as a category for the observer, and more conscious as a development for those living within it. Whatever other existential history world society may have, it is not one that can be documented in any substantial way.

It follows that the book's intent is to provide a particular view of the relationship between international and world society, derived from historical evidence rather than from *a priori* theoretical reasoning. Most extant accounts imagine that world society and international society either have co-existed in some kind of timeless parallelism, or that world society has developed exogenously as an oppositional force to threaten international society from the outside. In some accounts, world society now destabilizes the conception of international society, and may be in process of displacing it. As against these interpretations, this book argues instead that the two have shared a common and overlapping history, at least since the nineteenth century, and possibly for much longer.

Such a perspective entails a number of critical implications. If this trajectory is accepted, it places any 'opposition' between them within a specific context. The two societies share a history of interaction, and, whatever the resulting tensions between them, the relationship has been complementary as well. That recollection should make us sceptical of the thesis of impending displacement, namely that world society has meaning only as something that seeks to undermine and replace the conception of international society. A common history of past collaboration over *jointly agreed* goals—whereby international society has served as the principal instrument for the realization of newly defined



objectives emanating from world society—suggests that the displacement thesis may be substantially misleading.

On this basis, and as a pragmatic response to the need to trace a real-life history, it seems inescapable that any effective historical analysis of world society can be achieved best by tracking its engagement with the state system. There are, of course, definitional choices that need to be made. We might refer to world society as the totality of social interaction (including the inter-state). Alternatively, it is just as common to treat international society as the all-encompassing term (embracing the non-state dimension as well). Theoretically, not much hangs on which conceptualization is adopted, as long as we are given purchase on the interaction of two social realms, one that is predominantly concerned with the state system, and one that is centred instead on non-state actors, and on the inter-personal. Dunne has usefully summarized the issue: ‘The question whether one proceeds with an expansive understanding of international society—which includes a multiplicity of actors all enmeshed in international order—or a more restrictive one (simply the inter-state domain) is an analytical choice’ (Dunne 2005: 164). The crucial point, as he reminds us, is not whether one begins with international society or world society, ‘but rather how a theoretical account incorporates both elements’ (Dunne 2005: 165). At the very least, the emphasis must be on this interaction (often positive) between world society and the state system:

The underlying process is arguably a movement towards a world society, a frontiering process inimical to the institutionalisation of a society of states. Yet the effective expression of this process is in inter-state agreements, and the society of states is also strengthened... The distinction between movement towards a world society and movement towards a society of states is a useful one, but (*pace* Bull 1979) the two trends can be complementary rather than contradictory.

(Dore 1984: 418)

This captures the spirit of the following exercise. Instead of as necessarily oppositional, the two societies may be interdependent, and this is the view endorsed in this book. The positive interaction results from the fact that ‘transnational civil society needs the cooperation of states and national governments... Only states are able to guarantee the rule of law...’ (Risse 2000: 205). In this way, world society has found international society largely indispensable, if often massively inconvenient as well. More surprisingly, perhaps, international society has found that it also needs world society. As we shall see, international society has been an active participant in this process of normative transference, and we need to explore those particular conditions within international society that have, at various junctures, assisted this process.

The case studies form the main part of the book. The device previously adopted (Clark 2005) was to study the major international peace settlements of modern history, on the grounds that these provided particularly fertile grounds for affirmation, and contention, of basic principles of international legitimacy. This scheme is largely replicated in this book. There is a widely held view that it was during the nineteenth century that the doors of international diplomacy first started to be prised open to wider social scrutiny and influence. Accordingly, the book explores a number of key historical episodes, mostly related to peacemaking, to test the truth of this proposition. This format might well appear counter-intuitive: highly structured meetings of international society are not the most obvious places to begin a search for the presence of world society. However, it is exactly the opening created by the large-scale disturbance of war that can be thought to have presented this opportunity. In each case, the discussion is focused upon a norm that appeared initially peripheral to the interests of international society as such, and certainly to its key tasks of peacemaking. Each of these episodes is concerned with the working out of a normative issue that might be thought to have greater resonance within world society, than within the confines of the states system. To the extent that this was so, the question is why and how it was that international society became interested in engaging with the issue, and—whatever its specific decisions on the matter in the short term—what lasting results the injection of the new normative framework had upon the evolution of international society's principles of legitimacy. The illustrative case studies selected are themselves concerned with such matters as the slave trade and its abolition, the 'humanizing' of warfare, the principle of racial equality in a racially highly unequal international society, the regulation of a world society united through labour, the resurgent idea of human rights as expressed in the period at the end of the Second World War, and the official adoption at the end of the Cold War of a norm of democracy as the basis of rightful membership of international society.

Running through this analysis also is this previously elaborated scheme (Clark 2005), whereby international society's principles of legitimacy attach both to issues of rightful membership, as well as of rightful conduct. Central to the study is how the matter of rightful membership within international society has been addressed at those key moments when international and world society have explicitly engaged with each other. This was the import of Vincent's objection that individuals had not yet been granted full membership in international society: 'On the more profound question of the revolution in the membership of international society, it remains doubtful whether individuals have *joined* the club, as distinct from benefiting from some of its principles and provisions' (Vincent 1986: 106). Elsewhere, Vincent had held out

the more radical prospect of a reconstitution of international society towards a more inclusive membership, as reflected in the language of the UN Charter:

The kind of language associated with revolutions within the member-states of international society... was now asserted on behalf of world society as a whole... When it is said that this commitment represents a revolution in international politics, two things are meant, the first weaker than the second. The first is that while states still constitute the membership of international society, they have taken on a revolutionary purpose, adding the needs and interests of individuals and groups other than states to their traditional preoccupation with peace and security among themselves. The second is that, in taking on these purposes, states have dissolved international society into a world society in which groups and individuals have equal standing with states.

(Vincent 1986: 93)

In the context of these selected case studies, it is a matter of some import to determine which of the two processes is pertinent. On the occasions when international society has conformed to the preferences of world society, does this amount to evidence of the former process, or of the latter—and stronger—version? Elsewhere, Vincent had made the following point: ‘The Universal Declaration, the Covenants, the various Conventions on, for example, Slavery, the Elimination of Racial Discrimination, the Prevention of Genocide, are all international measures which not merely recognize the existence of a society beyond the society of states, but also seek to constrain the conduct of states towards that society’ (Vincent 1986: 94). This latter comment suggests that there may be a middle, and better, position between Vincent’s two extremes. In between a continually exclusive state membership, and the final dissolution of international society, is to be found an accommodation between international and world society whereby the mutuality of their reciprocal claims is recognized. This may betoken a partial merger between the two societies, as against any putative dissolution of international society.

Such explorations along the interface between international and world society raise a number of important analytical issues. If it can be demonstrated that certain policies, or normative positions, have been imported into international society with the encouragement of particular non-state groups, what might this tell us? Is it interesting merely as a description of social and political interaction, in which some individuals and transnational actors discover the political resources to become effective in influencing international society? To this extent, the individual case studies will review the evidence for the new norm as resulting from *world society action*. Alternatively, as implied in John Vincent’s quotation above, does this tell us instead something more important about social *recognition*, and hence about the acceptance of a normative claim? Following this reasoning, the cases will examine also the evidence in support

of the new norms as the embodiment of a *world society claim*. In that sense, the following study is intended not simply as yet another contribution to the field of transnational or non-state actors, and their influence (although it does need to trace many of these activities). Its guiding question is to what extent international society has been persuaded to adopt new normative frameworks because it has been persuaded that world society has a *right* to be heard, and for its values to be incorporated. When this occurs, international society's legitimacy principles come to be reformulated to take account of those norms emanating from world society. At this point, any sharp demarcation between the two categories is further eroded in practice, but as a result of historical evolution, not of conceptual incoherence.

There are some parts of this agenda that need to be set out in greater detail. These pertain to the existing literature on international legitimacy, and its place in international society. Above all, we need to consider more closely the various attempts to make sense of world society. Once this theoretical terrain has been adequately explored, the central part of the book will concentrate upon the set of six case studies. The results of these will be incorporated finally in the theoretical stocktaking at the end. This will establish what the case studies have told us about the sources of norms, their relationship to international legitimacy, as well as about the nature of contemporary world society. Where do international society's norms come from, and what effect do these have upon the developing practice of legitimacy? Is it puzzling that international society should have adopted the norms that it has, and what, in turn, might this tell us about international society?

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# International Legitimacy: Encounters between International and World Society

If practices of legitimacy are what give international society its distinctive identity, why further complicate matters by additional appeal to world society? The short answer is that those practices revolve around norms, some of which appear to have no natural source within international society as such. Accordingly, this book explores the origins of a number of those new international norms that have subsequently fed into the struggle over legitimacy within international society. Its principal *modus operandi* is a set of case studies that examines the reconstitution of international legitimacy via the normative interaction between international and world society. Hence, world society needs to be brought into the analysis, since it has been an important agent in the history to be investigated. To make such an historical exercise possible, it is first necessary to bring some further conceptual clarity to its principal elements.

Central to the following argument is the suggestion that international legitimacy is not, and has not been for some time, the exclusive property of international society alone. This is true in two separate, but inter-connected, senses. First, the practice of legitimacy takes place within a consensually agreed, but shifting, normative framework. Within it, appeal is made to particular norms, although how these are to be applied, and what weight shall be attached to each individually, remains largely indeterminate. The contention is that, in some notable historical cases, these norms have been drawn from a constituency that is separable from that of international society. This will be called world society. The book is then an attempt to document the process of this normative transference.

This is important, secondly, because world society—having initially promoted these norms—does not then simply relinquish them to be applied as international society sees fit. It retains, instead, a continuing proprietorial interest. In terms of the practice of legitimacy, this is significant precisely because it results in a broadening of the social domain within which the terms of legitimacy are debated, contested, and refined: international society

does not enjoy exclusive jurisdiction over this process. World society therefore represents one *source* of the norms that come into play in the stipulation of legitimacy, while it is also increasingly a *target audience* that must in some form be addressed for legitimacy claims to be successfully registered. In these ways, world society should be understood both as the provenance of some important new norms, and also as a player within that social sphere that serves to adjudicate what counts as acceptable adherence to them. Awareness of the significance of this latter process is by now widespread in the literature. Typically, it has been noted that the ‘politics of legitimacy are played out to an increasing range of audiences, domestic, international and transnational’ (Hurrell 2005a: 24). This transnational audience is considered to be of growing importance. ‘[W]e should expect NGOs and public opinion’, writes Finnemore (2005: 205), ‘to become more consequential players in generating acceptance or rejection of international legitimacy claims’. There is no reason to dissent from this view, but this is not the main focus of what follows.

At the same time, recognition of the former process—that some key norms may originate in world society—remains much less common, and is the central claim advanced within this book. While theorists have expressed interest in how norms disseminate and cascade, they have as yet failed to pay sufficient attention to the modalities of the actual negotiation whereby norms have been transmitted from the one social sphere into the other. The crucial point to emphasize is that norms do not simply *disseminate* into international society, but have to be *formally adopted* by it. There is much insight to be gained into the dynamics of both international and world society by studying, in detail, those key moments of negotiation. Crucial to the selection of the case studies was therefore that the inter-societal process of political and moral suasion should culminate in a public, and consensual, affirmation of a general normative principle. Such was to occur in all the cases reviewed. Although these may well have reflected the general consolidation of new normative positions, we need to be sensitive to the precise constellation of factors operative within both international and world society, and to the specific modalities of the negotiation that ensued as a result. It is from the rich historical detail of these encounters that a fuller picture will hopefully emerge.

This chapter will proceed in a series of stages. First, generic issues about international legitimacy will be confronted. Secondly, it will establish a working conception of world society. Thirdly, to make sense of this conception, it will explore how world society relates to international society. Are these discrete and exclusive categories? Do they stand in some kind of opposition to one another? Are they demarcated by the differing memberships of which they

are each composed, international society being the aggregate of states, and world society the aggregate of individuals, or of other non-state actors? Should they be assumed to exist in a static relationship, or in one that is dynamic, and in which evidence for the emergence of world society might be thought to herald the commensurate decline of its international counterpart?

The answers to all these questions need to be theoretically informed, and this chapter will establish the framework within which the analysis can best proceed. Be it noted, however, that the answers cannot remain at a purely theoretical level. At the end of the day, an essential part of the response has to be empirical and historical. When we explore the development of world society, how it relates to international society, and whether world society might in some sense be displacing it, we are asking a set of questions that demands largely historical answers, albeit guided and constrained by initial conceptualisations. The case studies to follow therefore provide the historical evidence upon which theoretical analysis can be more securely based.

## INTERNATIONAL LEGITIMACY

International society remains the key concept framing this study. This rests on the notion that the inter-state system has developed its own particular institutions, such as to make sense of the claim that it forms a distinctive society. For English-School theorists, these were classically considered to be the institutions of the Great Powers, the balance of power, international law, diplomacy, and war (Bull 1977; Bellamy 2005a). In most of these accounts, the core business of international society was deemed to be the minimalist goal of maintaining international order, in contrast to any maximalist programme for attaining international justice. To this standard list of international-society institutions should be added, over and above, the practice of international legitimacy. This book is interested in international legitimacy as an attribute of international society, while at the same time suggesting that its normative content may be derived, in part, from alternative sources, including world society.

International legitimacy has long been a deeply entrenched practice within international society, and, as such, serves as a powerful constraint upon behaviour. This does not mean that it suffers no violations, or that states do not perform 'illegitimate' acts. What it does mean is that international society imposes costs on such deviancy, or is forced to bear some itself, and these costs are a telling indicator of the infringement that has occurred: 'legitimacy makes political processes more efficient by reducing the costs of enforcing



compliance' (Parkinson 2003: 182). If so, the converse is true also that departures from legitimacy attract additional costs, and so make political processes less efficient. The absence of legitimacy thereby generates a kind of political friction.

International society constructs its own principles of legitimacy by appeal to specific norms, and in the practical attempt to apply those to particular historical episodes. Such norms evolve over time, and are endlessly remade in the course of the legitimacy games that states play. It is therefore important at the outset to stress this historical fluidity of the norms that underpin international society, and the shifting conceptions of legitimacy to which this gives rise. It is precisely the historicity of international legitimacy that is central to this study, and which generates its main agenda. How should we account for the normative shifts that have characterized the evolution of international legitimacy, and which conditions have most contributed to this movement? One source of such shifts, it will be contended, is the importation into international society of norms that have their genesis in a distinctive social milieu, namely that of world society. However, when international society adopts new norms of this kind, its own character or identity changes. In short, this book represents a challenge to those many accounts of international society that adopt a largely 'essentialist' perspective. It endorses instead the recent claim that 'neither solidarism nor pluralism . . . should be treated as stating a universal or timeless truth about international society' (Linklater and Suganami 2006: 66). The nature of international society is defined by those specific principles to which it explicitly subscribes at any one particular moment, and these vary from time to time.

Nor, for that matter, is there any such thing as a handbook of legitimacy principles *per se*. Instead, appeal is made to competing sets of norms, many of which depend critically for their power on the specific circumstances in which they are to be applied. This lends a high degree of indeterminacy to the attainment of legitimacy. That said, it should not be concluded that the content of the specific norms is of no consequence. Norms are powerful precisely because they resonate within international society, and all the more so when they have been consensually adopted. They, in turn, exercise both restrictive and permissive influence over state behaviour. It is for this reason that it is so important to establish their provenance.

There is no need here for a comprehensive review of the topic of legitimacy in general. There are by now a number of good overviews available (Barker 1990; Franck 1990; Beetham 1991; Hurd 1999; Reus-Smit 1999; Coicaud 2002; Steffek 2003; Bernstein 2004; Clark and Reus-Smit 2007, forthcoming), and the author's own position on some of the core issues has been previously set out (Clark 2003, 2005). The main purpose of the present section, more

specifically, is to relate a conception of international legitimacy (and the problems in analysing it), to the context of world society (and the problems entailed in making this transition).

Social science has long been exercised by the importance, and the simultaneous recalcitrance, of the concept of legitimacy. Moreover, additional complications arise as soon as the topic is addressed outside a national or domestic setting. For this reason, IR scholars had managed to avoid any serious engagement with it (Clark 2005: 11). This reluctance was no doubt reinforced by the bewildering variety of competing categories for conceptualizing legitimacy: empirical/normative; descriptive/prescriptive; a form of compliance, distinct from coercion, or self-interest; input/output; substantive/procedural; representational/deliberative; legitimacy/legitimation/legitimization, and so on. When this entire spectrum of approaches is considered, we soon realize that legitimacy is less a single concept, and more a whole family of concepts, each pulling in potentially different directions. None of this, however, diminishes its centrality to international political life.

Much of the literature drifts uncertainly between legitimacy, as a set of values or norms, and legitimacy, as a political condition predicated upon apparent concordance with those norms. Otherwise expressed, there is a widespread confusion between legitimacy as 'normative input', and legitimacy as 'behavioural output'. Under the former, proponents discuss a variety of values and norms that are thought to represent the substantive tests for legitimacy. Under the second, commentators discuss legitimacy as a political condition where approbation has, in fact, been accorded to a regime or an order. In reality, despite our attempts at categorical distinctions, it is fair to say that 'the concept cannot be relieved of its empirical–normative duality' (Mulligan 2004: 482).

According to the normative approach, the requisite inputs can be specified in advance (relevant norms, proper procedures, the political requirements for consensus). As a political output (or as successful legitimation), its attainment becomes knowable only 'after the event'. Only when the political game is already running can we begin to tell how well it is 'playing' among its various constituencies. This is less of an issue where the legitimacy of, say, a single institution is concerned (Security Council, World Bank)—as in this case the outcome is iterative or cumulative. It is more of a problem with a specific 'event' or 'policy' (say Iraq), as this may take place as a single episode. Thus, at any one moment, the debate about the 'legitimacy' of the Iraq war was, simultaneously, a debate about the appropriate norms governing resort to such war; a debate about whether or not there was a social 'belief' that these norms were being adhered to in this particular case; and a debate about how successful were the various—and strenuously competing—legitimation strategies then

in play. It was never likely that there could be a single convincing answer to such diverse questions.

These general issues give rise to some specific concerns for this project. Legitimacy makes any kind of sense only within a social context. That is to say that for legitimacy to have meaning, it requires an existing social framework (Franck 1990: 204–5). The corollary is equally compelling: we can make little sense of a concept of society in the absence of its shared principles of legitimacy. Indeed, the contention reiterated here is that legitimacy *constitutes* society. Once accepted, key questions then emerge about the nature and scope of the pertinent society, and this has a direct bearing on our attempt to make sense of world society.

Thus viewed, the present book approaches legitimacy as a dimension of historical sociology. It has been observed that ‘empirical research became increasingly interested in the social functions of legitimacy rather than in the normative justification of governance’ (Steffek 2003: 253). Socially, legitimacy functions to prescribe recognition of the relevant actors, and also to prescribe appropriate forms of conduct. Where we witness performance of these tasks, it is fair to conclude that society is operative. Fundamentally, therefore, the search for legitimacy principles and practices acts as a divining rod for the presence of society, and is an approach that allows the possibility of attaching some empirical content to the otherwise highly abstract concept of a world society. World society is imperfect, or incomplete, in that it does not possess its own autonomous political system, within which a discrete set of legitimacy principles might operate. It is, however, sufficient of a society to make selective representations into the legitimacy practices of international society, and does so through attempts to instil therein its own—albeit still contested—normative preferences.

Crudely expressed, legitimacy now operates increasingly at the interstices of two societies—international and world. ‘Legitimacy . . . mingles considerations of state and international governance by moving freely between audiences (the community of states and a community of individuals)’ (Mulligan 2004: 482). It is in this condition that many commentators detect the key problems for the legitimacy of global governance: ‘if we are to continue to enjoy the benefits of multilateralism’, is one typical suggestion, ‘it must have the backing of transnational society and the respective national societies’ (Zurn 2004: 262). The core of the issue identified here is the scope and membership of the transnational society affected by global governance, and how it is to make its voice heard.

What makes legitimacy so highly indeterminate is its shifting social basis, both in terms of the (re)negotiation of its relevant membership, and the historically changing substance of its rules of conduct. As noted, legitimacy is the

realm of the fluid. Accordingly, 'legitimacy... is not conducive to formulaic lists of requirements. It is highly contextual, based on historical understandings of legitimacy and the shared norms of the particular community granting authority' (Bernstein 2004: 18). Others reinforce the same point. 'Legitimacy rules are moving targets' (Van Rooy 2004: 62). This encapsulates the challenge for the historian, especially one embarking upon a study of the evolution of legitimacy at the interstices of international and world society.

What then are the specific problems that arise when the norms informing international legitimacy have been sourced originally from the different milieu of world society? Without doubt, this transposition gives rise to a multiplicity of difficulties for the actors engaged in the practice of legitimacy. As we have seen, world society is both a *source* of normative appeals, and also a *target* of legitimacy claims. In this dual role, world society has broadened the normative agenda, especially to include aspects of human rights, while also greatly expanding the scope and heterogeneity of the social constituency within which legitimacy is sought. At the very least, for the participants, the inclusion of world society has rendered legitimacy an even more complex game to play.

What holds for the participants, however, holds equally for the observers of this practice. In this respect, as regards scholarly reflection upon international legitimacy, a number of new challenges arise. These concern the already multi-layered relationship between power and legitimacy; the diffuse nature of any consensus within world society; and whether the acceptability of new norms is to be explained by their intrinsic substance. Each of these issues arises in any attempt to account for the particular conditions that favour the adoption of new norms. As will become evident in the case studies, international society has been far from passive in these normative encounters; it has been frequently proactive in selecting which norms to adopt, and also in their subsequent promotion. These new norms have been accepted, as a result, through mutual interaction (with the active participation of both world and international society), not through any unilateral imposition by world society alone. The critical issue is then to specify which conditions favour such a positive engagement: power, consensus, and substance present interesting, but challenging, lines of thought for this enquiry.

Legitimacy is no mere adornment upon power, nor is it an alternative to it: it is a constituent of power (Reus-Smit 2007). This forms one part of their very complex relationship: legitimacy enhances power, while power facilitates the adoption of certain notions of legitimacy. Bukovansky (2002: 27) demonstrates this mutual reinforcement in the inter-state context: 'The most visible and influential legitimacy conceptions in a given system are those of the great powers in that system... That said, the success of the dominant states in a

system is likely to be perceived at least partly as the result of the legitimacy norms to which they adhere, because legitimacy constitutes authority and authority wields power.' It follows logically that this same mutuality is in play in the world-social context: conceptions of legitimacy both follow power and also contribute towards it. The analytical problem then is to make sense of which dimension of power is relevant to this transference of legitimacy norms. Is it facilitated principally by the sponsorship of a powerful state? Alternatively, are we dealing here with a more diffuse sociological conception of power in which the pertinent factor is the power that world society comes to exercise over international society? In such a framework, the decisive conditions might be the vulnerability, for example, of the states and states system to threats of revolution, thus rendering international society more susceptible to world-society demands. Such a consideration might well have been in mind in 1815, 1919, 1945, and again in 1990. The analysis could then run that the facet of power in play was not inter-state differentials, but instead the power of world society over an international society disrupted by war, and exposed to further social upheaval. Alternatively, the relevant dimension of power might be that attached to those world-society groups conveniently nested in rich and powerful states. Possibly those INGOs or social movements with the greatest leverage over international society are exactly those with best access to the material and cultural resources provided by rich, educated, and liberal states. At any rate, we can be just as confident that power is implicated in the selection of new international norms, as we are unclear about which precise manifestation of power is decisive for the purpose.

Second, the practice of international legitimacy is fundamentally rooted in a variety of conceptions of consensus (Clark 2005: ch. 10). Historically, international society has developed an array of forms of consensus, and procedures for its expression, in different functional areas. These have proved regularly troublesome, but continue to enjoy nonetheless tolerable degrees of support. Within the framework of international society, it is at least possible to devise fairly pragmatic rules for recognition of a consensus. It is evidently much more complex to do so with regard to world society. This problem expresses itself at two distinct levels. First, on what basis can international society have confidence that any norm being advanced is consensually supported across a broad spectrum of world society, rather than being promoted only by a powerful sectional interest within it? Secondly, as a target constituency, how is this world society to express its acceptance of any particular legitimacy claim? Once again, our confidence that consensus continues to be central to the adoption of new norms sourced from world society is counterbalanced by the palpable difficulty of discerning how any such notion of consensus is to be made manifest in this setting.

Thirdly, this leads to difficult questions as to whether the likely appeal of certain norms comes down entirely to their substance. There is a complex relationship between the validity of a norm, and the degree of consensus that surrounds it, and it is not always clear which comes first: are norms valued because they are thought inherently 'right', or rather because they have emerged from a broadly consensual process (Clark 2005: 164–5)? In most of the cases reviewed in this book, international society appeared to have no particular 'interest' in the norm proposed for adoption, and yet was generally persuaded to subscribe to it. Was this because, for wholly contingent reasons, it proved possible to garner a consensus in its support, and hence the main virtue of the norm was the extent of its consensual backing? Or should we imagine that the norm was supported because of some sense of its absolute validity, and that the consensus emerged only as a measure of its perceived rightness? In this respect, it will be important to explore whether international society came to be convinced of the wisdom of adopting some norms, however much otherwise radical they seemed, only insofar as an *additional* case could be made in their favour, namely that they remained in some respects consistent with other norms to which international society was already committed.

It is no straightforward matter to trace those conditions in which world society is most likely to be successful as a promoter of new norms, nor to make sense of a practice of legitimacy within which world society has become a participant. Further to prepare the ground for the following history, yet more needs to be said by way of clarification of this problematic concept of world society.

## WORLD SOCIETY

The following survey stakes out positions on a number of the key debates surrounding the topic of world society. For convenience of exposition, these positions will be stated at the outset, and the steps leading to them subsequently retraced in the context of a review of the pertinent literature. The major issues to be resolved are as follows: whether world society is an analytical, or ontological, category; whether world society is to be considered an all-encompassing, or a more limited, social realm; whether world society is antagonistic, or possibly complementary, towards international society; and finally whether world society coexists with, or might be thought to be displacing, international society. Running through all these is the core focus of this book, namely the relationship between international and world society, both as a matter of IR theory, and also as an aspect of the history of international legitimacy.

In summary form, this book answers these questions as follows. First, world society is an analytical category, seldom ontologically found in any pure form, but nonetheless with sufficient real-life referent that a partial history of it can be told. Secondly, while it is perfectly possible to conceive of world society in all-encompassing terms (whereby it is inclusive of international society), it will here be presented instead as referring specifically to that non-state social world that takes a transnational form, and is distinct from the society of states. Thirdly, while it is commonplace to regard world society as representing, analytically, the antithesis of international society, in practice there is a substantial history of mutuality and complementariness that must equally be uncovered and recognized. Finally, as regards their chronological trajectories, the book rejects any suggestion of the imminent displacement of international by world society, and projects instead a continuing coexistence that already has been operative for most of the past two centuries.

Even thus delimited, world society certainly remains more inchoate than its international counterpart. However, the solution to this problem lies not in yet further conceptual refinement, but rather in an attempt to document the historical impact of world society. By concentrating upon those expressions of a tentative world-society voice, and also the reciprocal recognition of it by international society, the book seeks to recount a partial history of a world society that, while far from fully formed, has yet undergone sufficient development to take on some recognizable substance. Critically, the engagement with international society has been central to that development. Accordingly, the book starts with an analytical distinction, and builds upon that an interesting history of mutual interaction. The more that interaction has intensified, the more blurred has that analytical distinction become in practice. The remainder of this section will outline the intellectual history of the concept of world society before returning to the specific debates about these core points.

It comes as no surprise that the concept enjoyed its first burst of popularity during the inter-war period, and during the course of the Second World War (McMullen 1931; Mander 1941; Doman 1942; Corbett 1953). At this point, it was deployed mostly as an expression of the idealist impulse, whereby the inherent unity and interdependence of humankind would eventually free itself from the shackles of nationalist warfare and economic dislocation. World society stood for a political ideal to be promoted, and was usually juxtaposed to, and contrasted against, the vicious and disruptive behaviour of the states system. Typically, world society was extolled as the wave of the future; when people would become conscious of this trend, 'the emergence of an integrated world society will lie not far ahead' (Doman 1942: 23).

What is much more surprising, and less commonly noted, is the extent to which the terminology of world society crept also into significant realist

texts of the inter-war and post-war periods, making its appearance in some of their subtitles (Schwarzenberger 1964; Schuman 1969). It was less clear what precisely was signified by the concept in these contexts. Schwarzenberger seemed to suggest it as simply a matter of scale. 'For purposes that matter most', he concluded, 'contemporary international society is a world society' (Schwarzenberger 1964: 488). Thus viewed, international and world society are not distinct: world society simply denotes the now global scope of international society. Schuman's concept revealed more substance, but seemed to rest upon developing material interdependence and interaction, rather than upon any supposed normative integration. 'The World Society itself', he maintained, 'is the product of an emerging global economy and a nascent global polity'. At the same time, he was equally insistent that the 'World Society is not, after all, a global community' (Schuman 1969: 656–7).

Although adopting the different terminology of transnational society, Raymond Aron nonetheless was intrigued by its relationship to the international system. For Aron, this transnational society was composed of the relations among individuals, and in distinction to the inter-state realm. He was in no doubt that this was a social reality: it 'flourishes in proportion to the freedom of exchange, migration or communication, the strength of common beliefs, the number of non-national organizations, and the solemnity of collective ceremonies' (Aron 1966: 105). Importantly, Aron believed that transnational society and the international system responded to their own separate logics, in what he considered 'the relative autonomy of the inter-state order ... in relation to the context of transnational society' (Aron 1966: 105). Nonetheless, he was adamant that the states system regulated transnational society through its codes and conventions. 'From a sociological viewpoint', he asserted, 'I am inclined to call private international law the law that regulates this transnational society as we have just characterized it, that is, the imperfect society made up of individuals who belong to distinct political units and who are, as private persons, in reciprocal relation' (Aron 1966: 106). From Aron, we can then adopt his central focus on a social reality beyond the states system; his suggestion that this society is imperfect, but still capable of generating 'common beliefs'; and his insistence that it interacts in important ways with the states system, while remaining ultimately dependent upon it for regulation.

The concept of a world society has come to feature in the literature mostly since the 1970s, and has been elaborated principally, if not exclusively, in English-School writings. Its problem has been that, for the most part, it has been treated as an 'analytical dustbin' (Buzan 2004: 44; Buzan 2005a): in contrast with the extensive discussion of international society and international system, world society has been considered very much as a 'Cinderella'



(Buzan 2005b: 118). The following argument seeks to take this concept, as found in English-School theory, and to subject it to further development, by relating it to the concept of international legitimacy. For that reason, its main focus at this point is upon English-School analysis of the topic.

Much of the presentation of world society has been inherently philosophical, or treats it exclusively as an aspect of normative theory. The resulting problem, of course, as many commentators conclude, is that 'humankind has not yet seen a world society in this sense' (Buzan 2004: 203). In the main English-School versions, world society becomes 'a philosophical idea rather than an actual practice of international society' (Jackson 2000: 111). If world society is conceived in this way, purely as a normative construct, there is indeed little prospect of researching its historical impact on international society. The approach in this study, for that reason, is avowedly more empirical: its ambit, self-consciously, is the process whereby world society has periodically participated in the actual practice of international society.

Central to this discussion, then, is the precise nature of the relationship between international and world society. Are these discrete and exclusive social categories? Many different answers have been offered to that question. Some have adopted a largely normative position and have, accordingly, chosen to conceptualise world society in such a way as to foster the encouragement of cosmopolitan norms. Others, such as Buzan (2004), have articulated a purely 'analytical' purpose, and have advanced a concept of world society as an 'ideal-type', and as part of a wider taxonomy of types, in order to enhance analytical clarity. This study starts with that analytical category, and then seeks to build upon it by exploring world society historically. Presenting it exclusively as an analytical 'ideal-type' is therefore not suitable to this purpose. It needs to be conceptualised instead in such a way that its historical referent becomes recognizable, and researchable. In practice, this means we must start from acceptance that the two societies co-exist and interact. It is through this process of interaction that world society achieves a degree of self-realization, and also gains some recognition from international society.

If my earlier study (Clark 2005) was an extension of English-School theorizing about international society, the present volume is a development of English-School analysis of world society (Brown 2001; Buzan 2004; Williams 2005), and likewise through a central focus on principles and practices of legitimacy. It develops the claim that concrete evidence for world society's presence is best discovered in its efforts to influence the normative underpinnings of international legitimacy. We are able to discern evidence for world society in the 'value added' to international society's own legitimacy formations.

The existing world-society literature has already been reviewed comprehensively (Buzan 2004), and there is therefore little need for a detailed replication in these pages. The principal contributors to the notion of world society have been the English School, the Stanford School, the World Society Research Group (WSRG), and Buzan himself. Their various perspectives can be briefly summarized.

Buzan rightly comments of world society as a ghostly presence in the English-School literature, often hovering in the background, but seldom satisfactorily confronted. Bull had set out his fullest conception in the following terms (1977: 279): 'By a world society we understand not merely a degree of interaction linking all parts of the human community to one another, but a sense of common interest and common values, on the basis of which common rules and institutions may be built. The concept of a world society, in this sense, stands to the totality of global social interaction as our concept of international society stands to the concept of international system'. Just as international society was thereby distinguished from international system—on the basis of common interests, values, rules, and institutions—so could world society be distinguished from a world system, composed solely of 'interactions'.

Perhaps even more pertinently, he accepted also the notion of 'world order', as something 'wider than order among states; something more fundamental and primordial than it; and also, I should argue, something morally prior to it' (Bull 1977: 21). Given such a moral hierarchy, it seems unlikely that Bull would have felt wholly at ease with any notion that the normative foundations of legitimacy could find expression within an international society, but not as part of some world society. What then was the scope for a distinct normative discourse within world society?

Since he defines world society in a way that is logically cognate to his definition of international society, it follows that, for world society to have meaning, it *must* be characterized by similar qualities, namely possession of interests, values, rules, and institutions. That said, Bull's comments on the topic were at best ambivalent. In most of his earlier work, while acknowledging the importance of the issues raised by a world-society perspective, he tended to remain highly sceptical of it as any kind of social reality. The closest he came to any positive endorsement was in his Hagey lectures. With reference to then current demands for justice in the Third World, he admitted that 'they raise new and profound questions about the world community or society in which we live, with which we are only beginning to come to grips' (Bull 1984: 1). He had earlier conceded that 'it is possible that the area of shared moral attitudes and preferences in world society as a whole will grow' (Bull 1979: 90). He returned to this theme once again in the Hagey lectures:

the rights and benefits to which justice has to be done in the international community are not simply those of states and nations, but those of individual persons throughout the world as a whole. The world we live in is not organised politically as a cosmopolis or world state; it is a system of independent states. But within this system, the idea of the rights and duties of the individual person has come to have a place, albeit an insecure one, and it is our responsibility to seek to extend it.

(Bull 1984: 12)

Here Bull raises the issue of world society's lack of its own political system. This seemed to be a major stumbling block for Bull's acceptance of the 'reality' of world society, as it was deficient in this key set of institutions. He did not pursue the alternative line of argument that was available: unable to give direct political effect to its interests and values, world society has sought instead to colonize the normative bases of international society. Lacking its own political system, or system of rule, world society has been compelled largely to operate through the machinery of international society.

One is led to wonder why Bull considered world society to be any more lacking as a 'social reality' than international society. By analogy with his classical refutation of the domestic analogy as grounds for the denial of an international society—since it lacked 'government', but nevertheless had its own distinctive institutions (Bull 1966)—it might equally be suggested that world society is similarly just another variant 'anarchical society': both are politically deficient, but both have developed their own functional substitutes. International society has addressed its political problem as best it can through such institutions as diplomacy and war; world society's solution is to be parasitic upon the political system of international society. On Bull's own reasoning, it might then be considered no less of a society simply because it lacks its own settled political mechanism. It yet possesses other distinctive institutions, even if not an autonomous political system of its own. Notions of the 'rights and duties of the individual person' have increasingly become part of the institutional character of this society. Likewise, the proliferation of civil society movements, as well as the multiplicity of more formal INGOs, says much to the institutionalization of world society.

Despite some tentative concessions, Bull's dominant tone remained sceptical. 'The cosmopolitan society which is implied and presupposed in our talk of human rights exists only as an ideal, and we court great dangers if we allow ourselves to proceed as if it were a political and social framework already in place', he warned. 'The world society of individual human beings entitled to human rights as we understand them exists only as an ideal, not as a reality; but if it is our ideal, this must help to shape our policy' (Bull 1984: 13). He was at his most sceptical about those versions of the argument that suggested that

world society was now *replacing* international society. He referred to the fact that ‘Western expositions of international law now often proclaim the arrival of a world society, whose members include individuals and non-state groups, that has replaced the former society of states’ (Bull 1979: 84–5). He remained wholly unconvinced by all such suggestions.

If world society was to be found in the background of Bull’s reflections, it was John Vincent who brought it sharply to the foreground. ‘To the extent that any of the founding fathers of English School theory took a particular interest in world society’, remarks Buzan (2004: 39–40), ‘it was *Vincent*. His abiding concern with human rights focused his work precisely on the tensions between the individual and the state level, and therefore placed him on the boundary zone between international and world society.’ It was particularly on the nature of this relationship that Vincent made his distinctive contribution, and we shall return to his treatment of this topic shortly.

The Stanford School has made a separate kind of case for a world polity, thought to have been in operation since the mid-nineteenth century. Although described as a ‘polity’, its operational logic is essentially sociological. ‘Our starting point is the universalistic . . . level of cultural and organizational formation that operates as a constitutive and directive environment for states, business enterprises, groups, and individuals . . . this transcendent level of social reality began to crystallize organizationally in the second half of the nineteenth century’ (Boli and Thomas 1999b: 3). This has shaped the personality, as well as the activities, of a whole range of actors, including states, non-state actors, and individuals: ‘For a century and more, the world has constituted a singular polity . . . Like all polities, the world polity is constituted by a distinct culture—a set of fundamental principles and models, mainly ontological and cognitive in character, defining the nature and purposes of social actors and action’ (Boli and Thomas 1999c: 14–15; Meyer, J. *et al.* 1997). Given this framework of a world polity, the authors have been content to speak the language of world citizenship. ‘The source of world citizenship’, they write, ‘is the diffuse, abstract, universalistic cognitive framework of the world polity and world culture’ (Boli and Thomas 1999c: 40).

There are two brief comments that can be made on the relationship of the Stanford scheme to the present book. First, it is interesting that its historical dateline settles on the mid-nineteenth century as the key watershed. This echoes other findings on the development of global civil society, and does tend to confirm the importance of changes underway during the middle part of nineteenth century. Although it is plausible to locate the origins of a clear sense of international society in the seventeenth century (Clark 2005), the evidence for a strongly functioning world society is scanty much before the nineteenth. Secondly, the Stanford School is mostly interested in how it is that the world

polity, in some totalizing fashion, structures the behaviour of a whole range of actors, state and non-state alike. In contrast, this book has greater interest, not in the structural effects of a universal system, but in how principles operative in one part of the world polity came to be consciously adopted in another.

Most recently, there has been, additionally, the work of the World Society Research Group.

It is the declared goal of the 'World Society Research Group' (WSRG) to overcome this prevalent state-centric view of global developments in IR theory. The authors aim at integrating non-state actors and transborder relations in their concept of world society. Their conceptualization expands the two models of international system and international society, constituting world society as a diffusion of state and non-state actors that comprises elements of both international and transnational society formations enacted by societal actors and transnational relations.

(Jung 2001: 451)

To the extent that it does so, WSRG contributes to a conception of world society that merges the analytically separate state and non-state realms. This marks one analytical choice, but is not the choice reflected in this book. The preference here is to keep the two conceptually distinct, while tracing the degree of historical interaction and overlap.

Two comments can be made also about the relationship of the WSRG to the present study. First, and according to its own manifesto, the WSRG 'deals with the complex interplay between processes of transborder society formation... and community formation...' (WSRG 2000: 2). It thus starts with a clear conceptual distinction between society and community. It soon admits, however, that this cannot be sustained in practice. 'The distinction between society and community formation is one between ideal types', its authors concede. 'In real life, social relationships consist of a mixture of these two types' (WSGR 2000: 12). This parallels the claims made in this study about the distinction between international and world society. Secondly, the WSRG emphasizes that its notion of world society makes no normative assumptions, and hence is not to be understood as reflecting a necessarily positive and preferential set of developments. 'It should be clear from the argument so far', it insists, 'that our concept of world society does not assume that the process thus described is irreversible, and does not imply any one-sided normative evaluation of this process' (WSGR 2000: 15). In similar spirit, this book traces a history of interaction between international and world society, without expressing any normative preferences as between them.

There have been other contributions to this debate that do not fall squarely into any of these schools. For the majority, the interesting question is precisely the extent to which world politics is undergoing transformation in response

to this encounter. Some speak of transnational advocacy groups that 'contribute to restructuring world politics by altering the norm structure of global governance' (Sikkink 2002: 302). Whatever the precise terminology, the shared thrust directs us into an investigation of the relationship between the state and non-state worlds, or to the relationship between international and world society. What must be stressed, however, is that there is nothing particularly recent about this attempted 'restructuring.' It has been a feature of world politics at least since the nineteenth century.

### INTERNATIONAL SOCIETY AND WORLD SOCIETY

Are these to be treated as discrete and exclusive categories? In practice, the two are often presented as overlapping and indistinct categories. For instance, in one account, it is suggested that 'the society of states . . . requires the existence of some sort of moral community . . . [A]t the very least it requires some such sense of community among those who act on behalf of states, and, if order is to be enduring, *potentially also among the populations they represent* (Dore 1984: 408, emphasis added). When that latter dimension is brought into play, as a prerequisite for a stable international society, the edges between international and world society become increasingly blurred. To pursue these issues further, it is appropriate to return at this stage to the four-point agenda about world society previously outlined.

Firstly, the various conceptions of world society can be grouped into the normative, analytic, and the interactive. According to the first, world society should be considered as a normative construct. That is to say that it exists as a putative set of normative relationships, whether or not it has any material referent that actually embodies such claims. The second, most clearly expressed by Buzan, is the concept of world society as an ideal type or as an analytical category. The emphasis here on its distinctiveness is for analytic purchase, but bestows no clear visibility on world society as a practical social structure. This focus is mainly concerned with the unit or member that composes the society. *In practice*, it may be difficult to discern any such empirical referent in its pure form. Finally, there are those versions of world society that concentrate instead upon empirical interaction, but without necessarily assuming any real social bond. Theories of the world system, or of global society as a holistic social form, fall clearly within this last category (Burton 1972; Shaw 2000). These fall outside the scope of this study. In short, the former two make no ontological claim for world society, either because it has no existence at all, or because it has no *separate* existence; the third category does make an

ontological claim, but in a way that eschews the normative dimension of the present enquiry.

This leads us to confront Buzan's richly detailed discussion. As already noted, Buzan prefers to keep a rigid analytical demarcation between the state and non-state worlds, as analytical ideal types. He argues the case as follows: 'In some ways, they are deeply antagonistic, both in concept and in practice. In other ways, they are deeply interdependent, again both in concept and in practice. This tension, it seems to me, is the big political question of our time, and in order to get at it analytically, it is vital to keep the two worlds conceptually distinct' (Buzan 2004: 88). This tension between the antagonism and the interdependence is, indeed, a 'big political question', and we can begin to address it by placing it in an informed historical context.

Buzan concedes that there is a tension also between his preference for analytical purity, and the demands of writing history. 'Trying to visualise pure transnational and interhuman societies and communities set apart from an accompanying states-system takes one away from much of history and onto unfamiliar ground' (Buzan 2004: 123). It is for this very reason that the present study prefers to restore the history, by connecting world society firmly to the familiar ground of the states system. Accordingly, the pragmatic strategy suggested here is that the only directly accessible world society is one made manifest in interaction with the world of states. There are then two elements to the following argument. World society is sufficiently distinct that we can plausibly suggest its nurturing of normative principles in separation from states. However, the most important evidence we have for this normative gestation is the way it has eventually registered upon, and been recognized by, international society. It is only through this substantial interaction—part political and part normative—that the history of world society is to be traced in any tangible way. Buzan duly acknowledges this when he notes that 'the interesting question is less about ideal-type transnational societies, and mostly about how TNAs relate to the society of states' (Buzan 2004: 137).

In this case, we have already resolved the second conceptual choice as to whether world society is to be considered an all-encompassing category, or one that is more limited and specific in its ambit. There have been, as noted, many suggestions that world society be treated as broader than the international, and as encompassing it, while the international remains a distinct realm within it. Alternatively, it is as often argued that the conception of world society should be more limited, referring simply to the non-state realm.

This key difference can be traced further to the two perspectives already represented within the English School, namely those of Bull and Vincent respectively. 'There are in practice two broad ways of using the concept of world society. The first, typified by Bull, is to see it as a specialised idea aimed

at capturing the non-state dimension of human kind's social order... In this form, world society is distinct from, and counterpointed to, international society.' John Vincent and his followers represent the second variant. 'In this usage, world society ultimately incorporates and supersedes international society' (Buzan 2004: 63).

Those two configurations are sharply distinct. 'Bull's primary concern here is to restrict the idea of international society to states, and in that sense he is helping to draw a clear boundary between international society (states) and world society (individuals)' (Buzan 2004: 54). In this respect, Bull appears to be followed by Armstrong: he refers to 'world law' as a 'form of law appropriate to a world society of people rather than a society of states' (Armstrong 1999: 547). Conceptually, the two remain separate, whatever the empirical interaction that takes place between them.

The emphasis in Vincent is markedly different. World society *includes* the society of states, as well as many other actors over and above. This is evident in his explanatory comment about 'world society' as 'a society which is more inclusive than the society of states, extending its rules to individuals and groups across the globe' (Vincent 1986: 105). He had already elaborated his idea in these terms: 'it may also be said... that there has come into being a world society which includes in its membership individuals and non-state groups as well as states, and that the old principles of international society, like sovereignty and non-intervention, no longer have a clear run' (Vincent 1986: 99). On this particular issue, the analysis in this book largely follows that provided by Bull, not least, as will be demonstrated shortly, because it does not wish to subscribe to the implicit teleology additionally found in Vincent's more 'encompassing' conception.

Thirdly, it is important to consider whether, if international and world society are indeed distinct concepts, they should be thought of as antagonistic or complementary. The view is widely held that, as normative conceptions, the two stand as fundamentally antagonistic or contradictory. However, if we eschew a wholly normative approach, and focus on historical interaction, the extent to which they are complementary emerges with equal force. This also is an important argument developed in the remainder of this study.

Interestingly, this was a possibility that Vincent had already noted, even if it was one that he chose not to develop. Writing from the distinctive perspective of human rights, he was seized by the thought that, rather than simply eroding the basis of international society, a concern with human rights might possibly add also to its future viability: 'But there has also been a theme... that has human rights not as a challenge to the system of sovereign states, but as something which has added to its legitimacy' (Vincent 1986: 150–1). The



suggestion is especially pertinent for what follows, given that it is couched in the language of legitimacy specifically.

A similar emphasis can be found in the Stanford School: this likewise stresses the possibility that international and world society act by way of mutual enhancement. 'The world-polity context that envelops the competitive state system', they opine, 'has led to a mutual strengthening of states and transnational structures, very much contrary to the zero-sum imagery that often prevails in contemporary scholarship' (Boli and Thomas 1999b: 1–2). Instead of wholly oppositional, that relationship is potentially complementary as well. The positive interaction results because 'transnational civil society needs the cooperation of states and national governments . . . Only states are able to guarantee the rule of law . . .' (Risse 2000: 205). This mutuality is acknowledged elsewhere in the findings of other scholars working on transnational advocacy networks: 'The networks . . . participate in domestic and international politics simultaneously, drawing upon a variety of resources, as if they were part of an international society. However, they use these resources strategically to affect a world of states and international organizations constructed by states' (Keck and Sikkink 1998: 4).

Finally, then, the present argument rejects any notion of the impending displacement of international by world society, and projects instead a continuing coexistence. Simultaneously, this allows also for a degree of merger. When one society comes to share the norms of another, we are thereby describing a degree of social integration. To this extent, when international society buys into the norms of world society, social integration is occurring. At this point, any effort to retain a neat separation between the two in practice succumbs, not to conceptual confusion, but to the messy dynamic of history.

As a result, this book stakes out a distinctive position on when world society is to be located in time, and in juxtaposition to international society. This roots world society in history, rather than thinking of it exclusively in abstract normative or analytic terms: it is a society of which an at least partial history can be told. There are a number of possible positions on this issue, and they can be summarized in a threefold categorization: the timeless; the oppositional leading to displacement; and the *gradual recognition of world society as the source of a rightful claim*.

To the extent that world society is viewed simply as an abstract normative construct, without real referent, it may be said that world society is timeless in its relationship to international society. That is to say that both represent opposed sets of normative frameworks. While international society has been instantiated in practice, world society exists simply as a set of critical ideas for bringing about change in international society: it has no empirical referent, and to this extent may be thought timeless.

The second viewpoint depicts world society as a social development, exogenous to international society, but existing simultaneously with it. The two stand in opposition to each other as regards the main normative principles to which each attaches importance, and they are inherently irreconcilable. This perspective assumes that world society, in recent times, has begun to displace international society. The two cannot co-exist in parallel, but instead are converging in such a way that international society is forced into retreat, and world society is expanding to take its place. This is the dominant perspective to be found in Vincent's work. He acknowledged, with reference to human rights, the 'arrival of a world society' that could potentially 'unsettle the stability of international society'. Crucially, he went on to suggest, 'the advance of the one... might be inimical to the survival of the other' (Vincent 1986: 150). Thus, writers have depicted this displacement thesis as lying at the heart of much English-School theorizing in the Vincentian tradition. Its concern is with the 'putative change from an international society of states to a world society of individuals' (Williams 2005: 19), and is reflected in the second-generation solidarists whose work is 'intimately bound up in the transition from international to world society' (Buzan 2004: 57).

The present book rejects those foregoing perspectives. In their stead, it prefers a genealogy whereby world society, increasingly through the nineteenth century, has developed its own capacity to express a voice separate from that of international society. In this social context, it has nurtured a distinctive set of norms for which there was then no counterpart in international society. More importantly, there is hard evidence that international society, over this time, has begun to register the validity of some of these claims. The relationship, ever since, has been characterized by a substantial degree of mutuality: world society needed international society to give some juridical basis to its norms, and to enforce them; at the same time, international society began to acknowledge merit in extending the scope of its traditional norms, to accommodate those arising from world society. On Vincent's reasoning, there might be a pay-off for the legitimacy of international society from so doing. There is no particular reason to assume that the two cannot continue to coexist in this fashion indefinitely into the future.

If this is the argument, what is the evidence in support of it? It must be emphasized at the outset that this does not purport to be simply another study, historically based, of the evolution of the role of non-state actors. The following historical episodes do take account of the effectiveness of world-society action in pressing the case for certain norms. Beyond this, however, the cases demonstrate also the normative processes by which world-society actors were acknowledged, in varying degrees, to be articulating valid claims.

To make clear what this additionally involved, we need finally to bring together a summary of the main points of this discussion.

## CONCLUSION

If it is accepted that shared values do, indeed, lie at the heart of any society, then the nature of world society is to be found in its normative conceptions. If world society is to have historical meaning, we should be able to discern the normative principles to which it gives rise. Given the diffuse nature of this society, however, this is a task that is difficult to undertake directly. Accordingly, indirect evidence for the development of world society is best traced in the manner it registers upon, and helps reconstitute, the norms operating within international society. In this way, we can hope to move beyond the rather unsatisfactory condition of the present theoretical debates: the comparative investigation of world and international society can be advanced empirically by tracing the kinds of principles that have characterized both their separate, and their inter-linked, historical development.

The broad parameters of the discussion can be restated at this point. Notions of legitimacy remain central to the continuing identity of international society. However, the norms that feed into this practice of legitimacy are unstable, and have become progressively more so as international society has imported values sourced from world society. This world society is at once an analytical construct, in that it scarcely exists in any pure or integrated form. However, in its attempts to mobilize political campaigns in support of particular norms, as well as in its development of normative arguments that bestow identity upon it, world society generates a traceable history. This is most clearly revealed in its explicit engagements with international society, at those moments in history when critical norms have been negotiated between them. It has been noted of contemporary institutions such as the World Trade Organization and the International Criminal Court that, although 'requiring inter-state order and being created by states through diplomatic negotiation', they at the same time 'represent incorporation into international society of a global logic that is exogenous to these structural conceptualisations' (Williams 2005: 27). This neatly captures the general theme of this study. The point is then to retrace the steps that led us to this juncture.

The following case studies reveal snapshots of an embryonic and developing world society. At these sundry moments, sectors of world society have developed a greater sense of self-awareness, not least in response to the recognition which international society has bestowed. The two persist as still distinctive

societies, although the process of normative transmission suggests also some degree of overlap, or merger, between them.

Having established the broad framework that informs this enterprise, the discussion is now ready to move forward to its specific cases. The first of these occurs at the opening of the nineteenth century, and concerns the international attempt to abolish the slave trade. There was certainly to be no effective ban on that trade at this stage, but that is not the point. International society had become sufficiently minded to take a stance by issuing a declaration condemning the trade. It was directly encouraged to do so by Britain. This is in itself sufficiently puzzling to demand some explanation: why was it that international society was persuadable that this was an activity, the regulation of which lay properly within its purview?

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## Vienna and the Slave Trade, 1815

‘No other international prohibition regime,’ it has been attested, ‘so powerfully confirms the potential of humanitarian and similar moral concerns to shape global norms as does the regime against slavery and the slave trade’ (Nadelman 1990: 491). If this is so, and the issue of slave-trade abolition represents a clear case of international norm construction, it is worthy of our close scrutiny. What was the source of this norm, denouncing the slave trade, and how was it negotiated into international society? According to the same author, the answer is that ‘transnational moral entrepreneurs played leading roles’ (Nadelman 1990: 497). How did they do so, and what made it possible for them to exercise the influence that they did? Why was international society receptive to their concerns?

It was the general contention of my previous book (Clark 2005) that new principles of legitimacy tend to emerge most clearly in peace settlements at the end of major wars. Even if those wars were not always themselves the only or even the proximate causes of these shifts, they at least provided the opportunity for new ideas to take hold, and the political space for them to find their way onto the agenda. A not dissimilar story has been told by another historian, interested particularly in the evolution of diplomacy around the subject of racial discrimination. ‘All major international attempts to reduce racial discrimination and promote human rights,’ we are told, ‘have come in the wake of wars and revolutions’ (Lauren 1988: 26). And so it would seem that the aftermath of wars become noteworthy focal points for tracing the origins of other kinds of norms as well.

Let us note the contrasting outcomes for the slave trade of two such wars, in 1713 and again in 1815. In its settlement with Spain in 1713, drawing to a close the wars of Spanish Succession, Britain used its by then highly influential position at Utrecht to secure a privileged position in the exploitation of the slave trade, by assigning to itself the monopoly of the Spanish *Asiento*. A hundred years later, at the post-Napoleonic settlement, there was appended to the Final Act of the Congress of Vienna a Declaration of the Eight Powers, denouncing the continuation of the slave trade. An even more powerful Britain had exercised its diplomatic leverage to secure adherence to this statement from the

major powers of the day, including those that had no direct stake in the trade. Why, in the intervening century, had there been such a turnaround in the goals of British diplomacy, and what had then led the other powers to comply (with varying degrees of commitment and sincerity) with this predominantly British agenda? This is a puzzle that offers an intriguing point of entry into the complex interplay between international legitimacy, and its respective sources in international and world society. It provides a convenient first case study in this historical exploration of the encounters between international and world society.

There have been historians aplenty who have told the general story of the abolition of the slave trade. Some aspects of this episode, however, have not been addressed in any systematic fashion. Who was responsible for placing this item on the British national and then the international agendas? How exactly did national policy in Britain interact with those wider international developments, and what is the significance of this interaction? To what extent was international society being pushed to regulate, and finally terminate, this trade by pressure emanating from outside its own social domain? These are the difficult, but potentially illuminating, questions to be addressed in this chapter. In particular, while a number of IR theorists have chosen the slave trade abolition as a detailed case in the development of international norms (Crawford 2002), their work has tended to stop short of pursuing the intricacies of the diplomatic process by which the norm was formally adopted into international society. It is this dimension that will be the main focus of the following account.

The subject of the abolition of the slave trade appears to offer the opportunity for studying the engagement between world and international society in two distinct, but interrelated, senses. The first considers them as a field of *action*, and asks questions about the penetration of international society by transnational actors, acting as representatives of some putative world society. The point of interest, from this perspective, is the actual political process, and how and to what extent this activity took place. Action against the slave trade offers the first compelling historical case of effective political organization in support of a humanitarian cause (Stearns 2005: 28), and what was to be so striking was 'its attempts to create an international movement or coalition against the slave trade' (Oldfield 1995: 51). It asks questions also about degrees of influence, and explores to what extent world society was able to exercise a form of political leverage over international society. If so, what precisely was the nature of this leverage that it came to hold?

The second approaches the topic from a different perspective. It investigates the encounter between world and international society as a potential

realm of social *recognition* or *claim*. The pertinent questions, in this case, are about the extent to which international society seemingly recognized the membership of world society actors in an encompassing society, and the extent to which claims arising within world society might then be properly heard. This opens up the normative dimension of the engagement, and examines the injection into international society of an agenda that cannot be explained purely in terms of the logic of the state system alone. This latter approach therefore demonstrates the operation of the twin facets of legitimacy distinguished in Clark (2005), namely that of rightful membership and that of rightful conduct. To what extent did the conflation of the two societies give rise to a duty of social protection, on the part of international society, towards individual human beings, even those not embraced by sovereign states?

Accordingly, there are two sets of questions that may be asked about the nature of the movement that led to the eventual abolition of the slave trade in the nineteenth century. The first is about whether its novelty lies in the political process itself, and in the effective political action of world society actors within a distinctively international-society terrain. The second is about the normative process that sought to redefine the proper bounds of a society where states and people now more freely mingled.

As we shall see, in practice the issue was to cut both ways, and neither world nor international society can be cast in the role of hero or villain. *Private* transnational action from the abolitionists assuredly served as the main source for bringing the matter onto a public international agenda. At the same time, *private* transnational action on the part of the slave traders for long thwarted those instruments that international society put in place to end the trade. By common consent, it was only *public* international action that could potentially accomplish anything towards abolition at all, as the abolitionists well understood. At the same time, until a broad consensus could be achieved within international society, the wishes of the vanguard abolitionist-states would continue to be frustrated. World and international society confronted each other in a complex engagement of mutual need and resistance. Both remained obdurately part of the problem, while equally also part of the solution. It was to be only in some satisfactory negotiation between the two that any resolution could be accomplished. This chapter needs to set out the salient background to the effort at abolition, as well as the context of debate to which it has given rise, and then finally to provide some assessment of its significance in terms of this theoretical and historical project as a whole.



HISTORICAL BACKGROUND: THE SLAVE TRADE  
AND ITS ABOLITION

The Afro-Atlantic slave trade had existed since the early sixteenth century, and probably reached its peak in numbers during the second half of the eighteenth, and the first half of the nineteenth. By common consent among historians, it was during the last third of the eighteenth century that a serious intellectual attack on both slavery, and the trade, was first mounted, and came to be embodied in effective political movements. Societies for the abolition of the trade were formed in a number of countries, including Britain, France, and the United States. While it might at first sight appear that the movement was driven by the twin forces of the Enlightenment, and of the new temper of the age of revolution, the connection is not quite so straightforward. The impetus for abolition was less powerful, for instance, in the home of the two revolutionary states, France and the United States, than it was in Britain. Other factors were to influence how, and on what timetable, events were to unfold on the ground.

Britain, by all accounts, played a key role, both in leading the field in abolition for its own subjects, and in seeking to galvanize a measure of international support for cessation of the trade. The seminal event was the founding in 1787 of the Committee for Effecting the Abolition of the Slave Trade, under the aegis of luminaries such as Thomas Clarkson and prominent Quakers. The founding, it has been adjudged, 'marked the transition of what had hitherto been the Quaker cause of abolition into a national, even an international, movement' (Thomas 1997: 492). The movement developed a pronounced populist face, best reflected in the petition campaigns of 1788 and 1792. In the latter, 519 petitions were organized against the trade, involving an estimated 400,000 people (Oldfield 1995: 1).

It moved its attentions also to parliament, with various motions and bills being introduced, but defeated, during the 1790s. If it is true generally that war and revolution created beneficial conditions for advancement of the cause in the longer term, they nonetheless produced a setback for it in the shorter. The preoccupation with war, if anything, distracted attention from the anti-slavery campaign, and the close identification of abolition with radical politics, in the shadow of the momentum of the French Revolution, became a liability that scared off potential supporters (Anstey 1992: 277; Thomas 1997: 537). It was not until 1807, and after the death of William Pitt, that the new British Prime Minister Grenville was able successfully to introduce a bill, denouncing the trade as 'contrary to the principles of justice, humanity and sound policy', and rendering the trade illegal for British subjects from 1 May 1807 (Thomas 1997: 553). A bill in the United States, having been thus far forestalled by the

terms of the US Constitution, had likewise been signed into effect on 2 March 1807, but was to have less substantial effects elsewhere.

Efforts were made to incorporate some measures of restriction or abolition into the abortive terms of peace under discussion in the first decade of the nineteenth century, but it was not until the impending defeat of Napoleon that a major initiative to internationalize Britain's abolition could once again be attempted. One instrument for doing so was the First Treaty of Paris, negotiated with France on 30 May 1814. Britain's foreign secretary, Castlereagh, as we shall see, found himself under intense pressure from the abolitionist lobby to demand that France declare itself bound to terminate the trade. Indeed, his formal instructions for the negotiations required him to secure universal abolition (Kielstra 2000: 24). However, just as British moderation towards the terms of peace with France generally had been underwritten by the need not to weaken the domestic legitimacy of the restored Bourbon monarchy, so Castlereagh now felt constrained by the identical calculation from asking too much of France on the ending of the slave trade. Reporting on his negotiating exchanges with French foreign minister, Talleyrand, he advised his Prime Minister Liverpool on 19 May 1814 that 'it is derogating to French honor to submit to a *stipulation* on this subject, as the condition of receiving back their colonies' (Webster 1921: 183). Not having pressed the issue more stridently, Castlereagh, and the British public, had then to be content with a French undertaking to abolish the trade within five years. Under the terms of Article 1 of the Additional Articles of the Definitive Peace, the general principle of abolition was articulated, along with acceptance of this period of deferment in its execution:

His Most Christian Majesty, concurring without reserve in the sentiments of His Britannic Majesty, with respect to a description of traffic repugnant to the principles of natural justice and of the enlightened age in which we live, engages to unite all his efforts to those of His Britannic Majesty, at the approaching Congress, to induce all the Powers of Christendom to decree the abolition of the Slave Trade, so that the said Trade shall cease universally, as it shall cease definitively, under any circumstances, on the part of the French Government, in the course of 5 years.

(Parry 1969, 63: 193–4)

The terms were greeted with a sense of enormous betrayal among many abolitionists in Britain, partly because the nature of the promised collaboration with Britain was unspecified, partly because of the intended return of French colonies, and partly because of the delay in implementing abolition (Thomas 1997: 583). The reasoning behind the concessions, as noted, was not to alienate the new king from his people before he had even a chance to occupy his throne (Blackburn 1988: 320). If France was to acquiesce in its

own transformation, and thereby support the peace, moderation in its post-war treatment had to prevail, even if this meant selling short on abolitionist aspirations. The political reality, however, as British and French negotiators were soon to discover, was that 'excessive zeal against the traffic endangered the French regime', whilst, on the other side, 'slow progress against it could bring down a British cabinet' (Kielstra 2000: 1). Schemes for abolition found themselves caught between these opposing pressures.

The issue then moved forward to the discussions at Vienna, preparatory for the general settlement. Castlereagh's Memorandum on the proposed mode for conducting the negotiation of the issue of the slave trade is instructive. It discussed measures for putting pressure on France for an immediate termination, as well as adjunct pressures to be exercised against Spain and Portugal. It also raised the prospect of a possible embargo against the produce of the colony of any state failing to comply with abolition, a topic that was duly mooted by Britain at the Congress (Oakes and Mowatt 1921: 32). The remainder of the paper was tactically much more circumspect. It realistically appreciated that final abolition would be a 'work of some time', and to this end proposed establishing permanent machinery in London and Paris for its supervision, by way of the respective ministers of the Powers being ordered 'to act in concert for watching over the effectual execution of these regulations' (Webster 1921: 235). This extended the general features of concert diplomacy to the specific matter of the slave trade (Kielstra 2000: 51). The net outcome of the negotiations was the 'first multinational agreement ever signed on the issue of the slave trade' (Lauren 1988: 27), but one that failed to receive universal approbation by any means. It took the form of the Declaration by the Eight Powers of 8 February 1815, which was attached to the Final Act of the Vienna Congress (Parry 1969, 63: 474–5, French text; Hertslet 1875: 60–1, English text). Although the Declaration was to be of some considerable importance in articulating general principles, its detractors condemned it for lack of any specific commitments, means of enforcement, or any real sense of timetable. In what was to be the major concession to the opponents of abolition, the Declaration acknowledged that, no matter how honourable the views of the Sovereigns, the objectives 'cannot be attained without due regard to the interests, the habits, and even the prejudices of their subjects' (thereby implying that it was the subjects, rather than the sovereigns, that impeded action), and consequently the signatories 'cannot prejudice the period that each particular Power may consider as most advisable for the definitive abolition of the Slave Trade' (Hertslet 1875: 61).

There followed the interlude of the Hundred Days. Possibly in an attempt to win popularity in Britain, Napoleon took the step of decreeing French abolition. With his final defeat, a further settlement with France proved necessary,

and the terms of the Second Peace of Paris were drawn up. Unlike its precursor, this made no formal mention of a five-year extension of time within which France was due to comply. Instead, in its Additional Article, the parties undertook 'to renew conjointly their efforts, with the view of securing final success to these principles which they proclaimed [in the February Declaration]... and of concerting, without loss of time, through their Ministers at the Courts of London and Paris, the most effectual measures for the entire and definitive abolition of a commerce so odious, and so strongly condemned by the laws of religion and nature' (Parry 1969, 65: 306).

Having drawn France into the net, if not with a commitment to immediate action, British diplomacy could then turn its sights upon the other maritime powers. Over the next three years, post-war diplomacy—having recognized the limits of what could be achieved by a single multilateral instrument—concentrated instead upon a series of bilateral treaties. In the case of Portugal, this first yielded a treaty of 22 January 1815, abolishing the trade north of the equator (Marques 2006: 41–2). Spain had been the subject of treaties in July and August 1814 to create gradual abolition, and in the achievement of which 'Spain's financial distress was a lever which the British government determined to use ruthlessly' (Murray 1980: 51). Subsequently, in 1817, Britain again prevailed upon Portugal, and then Spain, to agree to mutual inspection of ships, as a means of policing the trade. Spain undertook to abandon the trade altogether by 1820, at a cost of £400,000 to the British Exchequer (Marques 2006: 46; Murray 1980: 68). The British ambassador in Madrid, Henry Wellesley, wrote to Castlereagh on 13 August 1817 to point out Spain's pecuniary motive: 'the money, which they are to receive is the principal motive for acceding to the Abolition' (Murray 1980: 68). A similar arrangement then followed with the Dutch in 1818 (Nichols 1971: 169–70; Webster 1947a: 459).

The motives of British policy, as well as the nature of its instruments, will be reviewed further below. For the moment, we should note the claims that Spain had been 'coerced and bribed' by Britain (Davis 1984: 238), and this raises crucial questions about the extent to which British motives were self-serving. 'Having atoned for her guilt in 1807 by relinquishing the lion's share of the slave trade', it has been noted, 'Britain was determined to prevent unrepentant nations from rushing to seize the sinful spoils', and it is from this perspective that we should understand 'the treaties exacted from dependent and weaker nations at the conclusion of the Napoleonic wars' (Davis 1984: 236). This puts a very particular construction on the events of this period.

The remainder of this background can be quickly rounded out. The powers collectively returned to discussion of the trade at the Congress of Aix-la-Chapelle in 1818. Castlereagh found himself once more disappointed by Tsar Alexander's lack of concrete support during the diplomatic rough and tumble,

and bemused by what he considered to be some of Alexander's less realistic counterproposals (Fladeland 1966: 369; Thomas 1997: 592). The Congress has been described as an 'unmitigated' failure for Castlereagh's diplomacy, given his inability to secure the main objective of a convention on the right to search (Kielstra 2000: 89). Otherwise, the Congress dispersed without further significant results for the issue.

The matter was returned to finally at the Congress of Verona in 1822, when no less a personage than Wellington invested considerable time and effort in his proposals for the meeting (Fladeland 1966: 369–70). Wellington submitted a six-point memorandum to the Tsar, and thought he had secured Russian support on the majority of them. When the multilateral negotiation opened, Russian support appeared to dissipate, and Wellington's proposals made little headway with the other allies, let alone with the French (Nichols 1971: 178–86). The Congress culminated in a further joint statement from the powers, this time somewhat downgraded to a Resolution, rather than a Declaration. This statement, of 28 November 1822, essentially reaffirmed the general sentiments of the 1815 Declaration, on which they pronounced themselves to remain 'firm'. It asserted that 'the Powers of Europe are called upon by their previous Engagements, as well as by sacred duty, to seek the most efficient means of preventing a traffic, which the laws of almost every civilized country have already declared to be culpable and illegal', subject only to the qualification that any measure taken by the sovereigns must be 'compatible with their rights and the interests of their subjects' (Hertslet 1875: 695–6).

Despite those best efforts to abolish the trade, and then to abolish slavery itself, the trade continued through the nineteenth century, if less voluminously in its second half. The powers returned to it once more in 1890 in the Brussels Act, a clear indication that the post-Napoleonic measures had remained far from complete.

## THE DEBATES ABOUT ABOLITION

This book does not seek to contribute to the general historical debates about the reasons for abolition of the slave trade. That topic has generated a large and controversial literature, and spirals off into wider discussions of the role of slavery in the development of capitalism, and in the financing of the industrial revolution in Britain, as well as into more specific analyses of the changing economics of slavery within the British and other colonies in the Americas. The details of these disputes need not preoccupy the present study.

However, there are some controversies that do impinge directly upon the concerns of this book. The driving forces behind abolition can be plotted along a spectrum that moves from essentially materialist interpretations at the one end, to predominantly idealist accounts at the other. The former tend to emphasize the reasons why it was in Britain's economic and imperial interests to take the lead in pressing for international abolition, whereas the latter present the case that abolition resulted instead from a shift in ideas. Far from acting for mercenary motives, Britain was prepared to make economic sacrifice in order to attain its normative objectives. Many accounts fall somewhere between these two poles.

At stake is whether the slave trade was abolished by economic causes, or for normative reasons. According to the former, the slave trade was driven by the economic requirements of the colonies in the Indies and America, and it was changes in economic fortunes that pushed Britain to take the initiative to stop the trade. Abolition was dictated by economic imperatives, and was largely self-interested. The work of Eric Williams (1964) led the field in this direction. In modified form, it is reiterated in those accounts that continue to emphasize that an 'international ban to prevent the revival of the Atlantic slave trade accorded with both the material interests of the British colonies and British conceptions of a new international order' (Blackburn 1988: 316). If not exclusively economic, the causes remained largely materialist. 'Intense political and military struggles within and between the leading Atlantic powers', we are advised, 'created conditions in which slavery could be successfully challenged.' As a result, 'slave systems perished in stormy class struggles in both colonies and metropolis' (Blackburn 1988: 520). Writers of this hue decry the 'idealism' represented by the work of Davis (1984; Blackburn 1988: 531).

It was Davis (1984: 109) who had approvingly quoted the words of John Stuart Mill:

It is not by any change in the distribution of material interests, but by the spread of moral convictions, that negro slavery has been put an end to in the British Empire and elsewhere... *It is what men think that determines how they act.*

Writers who followed Mill's analysis were prone to trace the change in intellectual and normative temper, with regard to slavery, that became apparent in aspects of Enlightenment thought, and to present abolition as the culmination of an ideological revolution, rather than as a mere shift in material forces. Thus has been established the axis around which historiographical controversy has since raged tirelessly.

The idealist case has been vigorously restated in recent years. 'Slavery... ended because those who made ethical arguments against those practices', writes Crawford (2002: 199), 'were able to convince enough people to

support abolition.' Thus viewed, abolition was scarcely self-interested. Against the materialists, she writes further that 'the slave trade did not end because it was no longer profitable', but rather, 'because it was suppressed for normative reasons' (Crawford 2002: 167). 'The fundamental impetus', we are enjoined, 'was a moral one derived in good part from religious and humanitarian impulses and the principles of the Enlightenment' (Nadelman 1990: 493).

This argument has direct relevance to our interpretation of British policy specifically. As against those who emphasized the British economic interest in abolition, the point has been made instead that Britain was prepared to bear economic sacrifice to gain its moral objective. As Britain distributed its economic largesse, and countenanced territorial distributions to buy off other states for the cause of abolition, Castlereagh became painfully aware of the potential costs at stake, and the risks of Britain coming to be seen as a 'soft touch'. He complained to the Prime Minister, Lord Liverpool, in late 1814 that 'you may rely upon it that nothing effectual will be done, which Great Britain does not pay for, so strongly is this expectation of turning it to a profit with us gone abroad' (Fladeland 1966: 365).

When the level of analysis is lowered below that of general historical shifts—be they economic or moral—the debate then focuses instead on the particularities of the abolition movement. That it was so long resisted, even in the amenable context of the British House of Commons, is attributed to the depth of the sectional interests that were able and willing to do so (Thomas 1997: 516). That the movement should, nonetheless, finally have been successful is likewise to be explained by the specific nature and competence of the movement as a political lobby. What finally propelled Britain to abolition was 'a persistent and dedicated political pressure group acting under particular political circumstances' (Stokes 1992: xiii). If the most important factors are to be found in such details, they resist being swallowed up in some general and mono-causal explanation.

The other remaining area of debate concerns assessments of the efficacy of international action on the issue, and this has a direct bearing on key questions to be explored further below. The sundry attempts to internationalize the abolition of the trade in the aftermath of the Napoleonic wars have been routinely dismissed by a number of historians, both as resting simply on power-political leverage, and as being largely nugatory in their practical effects. Accordingly, the dissemination to other countries of the British desire to end the trade followed largely from the exercise of political and financial power on the part of Britain, not from any spontaneous sharing of moral conviction. Spain and Portugal 'were heavily dependent on British support', and hence 'obliged to treat British proposals for a ban on the slave trade with at least formal respect' (Blackburn 1988: 316). This much the campaigner William

Wilberforce also understood in his observation upon the two countries that 'they may surely be compelled into assent' (Kielstra 2000: 23). The sense of obligation that was instilled, in this account, arose from coercive necessity, not from any normative pull. If so, this would place a distinctive construction on the nature of the international response to demands for abolition of the trade.

It is very common for historians to decry the efficacy of the statements and declarations that were made. These were 'so riddled with loopholes, and bedevilled by bad faith, that they completely failed to stem a strong recovery in the cross Atlantic traffic in the years 1815–30' (Blackburn 1988: 322). The shortcomings of the 1815 Declaration are widely criticized for setting no time limits, establishing no enforcement machinery, and for not making the trade illegal (Lauren 1988: 28; Miers 1975: 10–11). Even more harshly, it has been dismissed as 'pious, but ineffectual' (Nichols 1971: 167). In the same spirit, the directors of the African Institution, writing at the time, described the Resolution issued at the end of the Verona Congress as 'vague generalities of verbal reprobation, which, as experience teaches, bind them to no specific efficient measures' (Fladeland 1966: 373). None of this amounts to a particularly flattering epitaph.

And yet even those more hostile critics have managed to enter some plea in mitigation. While condemning the absence of practical sanctions entailed by the Declaration, it is conceded that what was accomplished was 'only the recognition of the principle that the trade was an evil that, however profitable, must be ended for humanitarian reasons (Lauren 1988: 28)). Miers (1975: 11) had earlier reached the same judgement, in the very same words, and hence acknowledged it to be a 'milestone in the struggle against the traffic'. The nature of the assessment that we reach, given these polarized sets of judgements, will have an important bearing on our understanding of the significance of these events. Should these statements be seen as empty gestures? Or might they have a normative significance that goes far beyond their practical accomplishments in the short term? This is an issue to which the discussion must revert below.

## ABOLITION AS WORLD SOCIETY ACTION

There can be no gainsaying that the abolition of the slave trade provides a rich, and early, case study of a network of transnational actors seeking consciously to shape the policy of international society. The abolition movement, accordingly, has been awarded the historical accolade as 'the first transnational



social movement in modern times', on the grounds that 'this cross-border campaign... was arguably the first moral entrepreneur to emerge out of the structure of civil society, to play a prominent role in world politics by pressing for new prohibition laws that would apply globally' (Keane 2003: 153). What is the evidence for such claims? It can be presented in successive stages.

First, it is very clear that the British Abolition Society was a nongovernmental actor that came to exercise considerable influence over the parliamentary process, and over the British Government. It commanded direct access to the highest levels of government, and was in regular communication with ministers. This reached its peak during the negotiation of the post-war settlement. The Government solicited information from the abolitionists for its own diplomatic use. The Duke of Wellington, for instance, helped publicize documents produced by Zachary Macaulay and by Wilberforce to help sway the negotiations with the French at Paris (Geggus 1985: 120; Booth 1934: 72–3). In return, ministers were just as happy to show 'Wilberforce and his associates documents from international negotiations'. During this period, the relationship became 'exceptionally close' (Kielstra 2000: 34–5).

One authority on Castlereagh's tenure of the Foreign Office reported that the abolitionists were 'a continuous charge upon his time and energy', and 'never ceased to exercise a formidable pressure upon the Government' (Webster 1947a: 454). This was well understood by Talleyrand who perceived the cause to have 'become among the English people a passion ranging to fanaticism, which the ministry is no longer free to oppose' (Kielstra 2000: 50). That this was so is clearly exemplified in a letter from Lord Liverpool, in his preparations for the Vienna Congress. 'I had a letter from Wilberforce yesterday', it pointed out, 'which proves to me that the Abolitionists in this country will press the question in every possible shape. We must do therefore all we can, and at least be able to show that no efforts have been omitted on our part to give effect to the Addresses of the two Houses of Parliament' (Fladeland 1966: 362).

The abolitionist movement had already adapted to a shifting political context. If anything, the movement had to change its tactics from simply relying upon widespread public agitation to a more concentrated approach on the corridors of power, as the progress of the French Revolution called into question the wisdom of the former (Anstey 1992: 276). Public campaigns were by no means discontinued thereafter. In the wake of the publication of the terms of the first Peace of Paris in 1814, there was a 'storm of protest in Britain'. Clarkson wrote to a member of the Foreign Office that unless the 'obnoxious article' of the treaty were removed, 'both Houses of Parliament, as well as the newspapers will be let loose against you' (Hochschild 2006: 317). Within two months, 774 petitions against the lax terms demanded of France

had been received (Blackburn 1988: 319–20). These petitions were signed by three-quarters of a million people (Thomas 1997: 583). More recently, those figures have been placed at 1,370 petitions, including 1,375,000 signatures, out of a total population of 13 million (Kielstra 2000: 30). This result was ‘little less than staggering’ (Walvin 1981: 67). Clarkson was in no doubt as to how effective this demonstration had been in concentrating the mind of government. ‘I cannot but think, that we have to thank the petitions for this Energy’, he wrote. ‘No other satisfactory Reason can be given why Administration was so apparently indifferent to the Subject when the Treaty was made, and why so interesting since’ (Walvin 1981: 68). Castlereagh had warned the ambassador in Madrid on 1 August 1814 of the intense pressure under which the government had found itself: ‘the nation is bent upon this object, I believe there is hardly a village that has not met and petitioned upon it; both Houses of Parliament are pledged to press it; and the Ministers must make it the basis of their policy’ (Murray 1980: 52).

That said, it is interesting to note that the most careful research on the movement concludes that success was finally due, not simply to force of public pressure, but to the specific arguments—and the tactics underpinning them—that the Society brought to bear. What made the cause of abolition palatable in parliament in the early years of the nineteenth century, and finally swung the vote in favour of abolition, was the manner in which the case had been made. ‘The key to the eventual passage of abolition is the way in which the abolitionists conceived the tactic... to present the abolition... as an elementary dictate of the national interest in time of war’ (Anstey 1992: 407). The way this logic worked was that a cessation of the trade would prevent the development of other states’ colonies during the war, and hence be understood as an appropriate war-time measure of protection. What this tactic necessitated, of course, was an elaborate act of dissemblance to conceal the true motives of its instigators. ‘From 1798 to 1815’, is the pointed remark, ‘Stephen worked tirelessly as the abolitionists professional watchdog, cautioning them to mute humanitarian arguments and to focus on questions of national security’ (Davis 1984: 172–3). If many an act of self-interest has been dressed up in the garb of humanitarianism, abolition provides the very rare example of the tactic applied in reverse.

That the abolition movement can be understood as an agent of civil society, operating to influence its own government in Britain, is a case then that is readily made. This does not substantiate the claim of the Society to be a transnational actor. Here, a separate body of evidence must be adduced. The Society did not confine its lobbying to members of the British Government, but targeted foreign leaders and politicians as well. It is in this respect, as a field of political action, that the interface between world and international

society makes its most telling appearance. What the representatives of the Society undertook was, not simply agitations and pressure within Britain, but also 'major campaigns to arouse public opinion both in Great Britain and on the continent, and steadfastly endeavoured to enlist the sympathies and aid of such key figures as Tsar Alexander I and Prince Talleyrand' (Fladeland 1966: 355). Their targets, collectively, were those best positioned to bring about a favourable stance on the issue on the part of international society as a whole. At the same time, British ministers were content to facilitate these efforts, particularly with regard to swaying French public opinion against the trade (Kielstra 2000: 42).

From the summer of 1814, and after the initial disappointment over the Peace of Paris, Thomas Clarkson had determined that the movement must set its sights on the international gathering to be convened at Vienna. 'If we exert our Voices', he enjoined, 'we are sure to find a change at the ensuing Congress' (Fladeland 1966: 358), and this set the precedent to be followed, first at Aix-la-Chapelle in 1818, and then again at Verona in 1822. From the outset, Tsar Alexander was a prime target of the abolitionists' endeavours (Webster 1947a: 456; Thomas 1997: 583). Wilberforce wrote to Alexander, pleading the case, but having initially thought to travel to Vienna himself, Zachary Macaulay was despatched in his stead. Wilberforce, in the meantime, undertook a detailed correspondence with leading political and literary figures throughout Europe (Fladeland 1966: 356). These included Talleyrand, Sismondi, Chateaubriand (the French minister of the interior), Mme de Stael, and Alexander Humboldt. On the occasion of the Aix-la-Chapelle Congress, Thomas Clarkson attended in order to present directly the abolitionist case. Clarkson obtained a private interview with Alexander, at which it appeared that the Tsar had been persuaded, and undertook to press the matter with Castlereagh and other heads of state (Fladeland 1966: 368; Nichols 1971: 187). Clarkson prepared also a background paper for circulation at the Congress. Both Stephen and Macauley provided Castlereagh with briefings on the French trade (Kielstra 2000: 87). Finally, William Allen was the emissary chosen to attend the Verona proceedings on behalf of the Society. He delivered a personal letter from Wilberforce to the Tsar. This warned him bluntly, in anything but conventional diplomatic language, that 'we should have no favourable opinion of his Majesty's religious and moral character if he did not honestly exert his powers on our behalf' (Fladeland 1966: 371; Nichols 1971: 178).

In these various activities, the abolitionist movement displayed the classical characteristics of what we mean by an agent of civil society acting in a transnational capacity: it sought to pressure the British government to take international action, while, at the same time, it targeted foreign leaders and

politicians to place further pressure on the British government. In this regard, Wilberforce saw the final Vienna outcome as broadly satisfactory. He recorded that 'I believe all done that could be done' (Kielstra 2000: 54). As a realm of political action, there is no doubt that this presents compelling evidence of a momentous encounter between world and international society. But did it represent anything more than this?

The answer to this question depends on how one is to assess this relationship among abolitionists, the British Government, and wider international action. Before addressing that issue directly, we need to consider the dimensions of this relationship in greater detail. Was this simply a case of a successful pressure group winning governmental representatives over to its cause, and thereby highjacking British policy to its sectional purpose in relation to other states? If not, how should we conceive of this relationship?

There can be no denying that Britain lay at the epicentre of the efforts to reach an international agreement on abolition. Indeed, in June 1806, the two Houses of the British parliament issued a Humble Address to the king, suggesting 'that he would be graciously pleased to embrace the most suitable opportunity of negotiations with Foreign Powers with a view to the General Abolition of the Slave Trade' (Anstey 1992: 380). Such initiative was resumed most clearly at the end of the war in Castlereagh's conscious effort to place the slave trade within the emerging management of the Concert of Europe. When Castlereagh, on 21 November 1814, sent Liverpool a copy of a memorandum on the procedure to be followed at Vienna, with regard to the negotiation of the slave trade, he drew special attention to one feature of it:

I particularly recommend to your consideration the advantages of having a sort of permanent European Congress in existence, as therein proposed upon this particular subject. I am of opinion that this may be made in itself a most powerful instrument to enforce with good faith the engagement of the several Powers.

(Webster 1921: 233)

It was this commitment to multilateralism that informed the logic of the negotiations to be conducted with France for the Peace of Paris. As we have seen, the dilemma facing Castlereagh was that any exacting imposition upon France would likely do damage to the stability of the new regime, and hence to the prospects of France's reconciliation with the new order. Castlereagh reported to Liverpool on 19 May 1814 his exchanges with Talleyrand in which the latter had emphasized that it was a matter 'of the authority and stability of the new government', and that on the outcome hung the attempt 'to revive a spirit in France more congenial with peace' (Webster 1921: 184). There was yet an additional concern for the foreign secretary. Castlereagh was convinced that France was central to the construction of a post-war regime against the

trade and, therefore, felt it was better to have France fully on board as a willingly compliant participant, rather than as one coerced into being so. This was evident in the counsel that he tendered to the Prime Minister. On the matter of the requirements from France on the slave trade, Castlereagh suggested 'our demands should not be pushed to an extreme upon this point', but that 'on grounds of general policy we ought not to attempt to tie France too tight on this question'. The rationale for such leniency lay in the wider goal of bringing Spain and Portugal on side. 'We have convincing proof how small the progress is that can be practically made in this measure unless the abolition can be made general', he argued, and concluded that 'if we get France on our side we shall have a preponderance of authority; without her aid I shall despair of bringing Spain and Portugal into our views' (Webster 1921: 185). Punitive exaction should therefore be discarded in favour of the moral authority which multilateral and willing compliance would deliver. In this reasoning, Castlereagh clearly broached the contested terrain where the needs of world and international society were to meet.

Such a multilateral agenda was pursued actively immediately after the war. The first meeting was held in August 1816, and a further fourteen meetings were subsequently held by the time of the Congress at Aix-la-Chapelle (Thomas 1997: 591). However, the attempt to deal with the issue multilaterally, through the Concert, remained largely unproductive, and Britain was driven back upon a bilateral approach. This, however, represented no diminution in the scale of the British effort, and it is calculated that Castlereagh's successor at the Foreign Office, George Canning, sent over one thousand dispatches on the subject of the trade (Thomas 1997: 595). But not all foreign representatives saw British efforts as the unalloyed pursuit of virtue. British invocation of a 'transcendent standard that the rest of the world was obliged to respect' raised the very real international political issue of whether 'a nation-state can ever be the altruistic agent of progress and civilization' (Davis 1984: 281). Much depended upon how British initiatives would be seen and understood by others.

Cynical assessments of British attempts to internationalize the question of the slave trade had accompanied these efforts from the outset. As early as the 1780s, there were many who understood that a concerted international ban on the trade was as much a means to the end of winning a national ban within Britain, as it was to be an end in itself. The force of the argument from interest—that a British ban would simply yield the lucrative trade to others—could be diminished in the event of the ban becoming increasingly universal (Anstey 1992: 323). However, the resort to such arguments, and their seeming transparency, simply amplified the overseas charges of British hypocrisy, deserved or not (Thomas 1997: 597; Nichols

1971: 176). Typically, Portuguese government instructions for the Vienna negotiations referred to Britain's 'false veneer of philanthropy' (Marques 2006: 40).

This partly reverts to the question of British motives in pursuing the abolitionist agenda. A recurring theme in the post-Napoleonic diplomacy was the attempt by Britain to persuade other states to comply with the ban on the trade, and especially to adhere to enforcement measures. This placed the spotlight on 'stop and search' on the high seas, something that had already become such a controversial aspect of naval policy during the war, and on which both France and the United States were agreed in presenting principled objections. There were many who suspected that Britain's urging of this form of enforcement was but a means to an ulterior end, namely the reaffirmation and further entrenchment of British naval supremacy (Webster 1947a: 461; Thomas 1997: 573, 592). By yielding to British demands to stop vessels suspected of carrying slaves, foreign powers would simply be acceding to Britain's new maritime order. In the words of one historian, 'Britain was at the centre of a great network of treaties which made her, as far as the slave trade went, the undisputed policeman of the high seas' (Miers 1975: 15). What appeared as the enforcement of a humanitarian principle, could just as equally be construed as little more than a means to the enhancement of national power. Any such proposals also appeared as a thinly veiled attack on the prospects for the development of the colonies of other states.

So where exactly was the line between principle and self-interest to be found? In allowing the conclusion that elements of world society interacted closely with the representatives of the state system to encourage an international response to the slave trade, can we conclude any more than that this represented the exercise of political influence by the abolitionists upon the British Government, and that in turn Britain was happy to pursue the international agenda because it was, in any case, in marked conformity with its interests? To attempt to unravel this issue we need to look more closely at the nature of the 'pressure' that the abolitionists were able to exercise. What precisely was it that gave them their hold over key parliamentarians and senior ministers in various governments, including Prime Ministers? In turn, what exactly was the nature of the leverage that Britain could employ against the other maritime powers? Was it purely power-political in some general sense? In addressing these matters, we will begin to explore the most puzzling issue of all, namely whether or not this encounter between world and international society should be understood simply as some political process, in which they interacted as autonomous and self-interested pressure groups, or whether the episode is not better depicted as taking place within a developing normative context, an important dimension of which was increasing recognition of mutually

understood social claims. Any such interpretation places a markedly different gloss upon what it was that transpired.

#### ABOLITION AS WORLD SOCIETY CLAIM

It was pointed out that the quest for international prohibition was sought, at times, as a way of sweetening the pill of national abolition. Wilberforce had understood the powerful logic of moving forward on a broad international front, as so doing would prevent opponents from hiding behind this national objection. His was to be a classic appeal to the wisdom of collective action. In a letter written in May 1787, he elaborated on his reasoning:

It is my firm belief that it would be for the interest of both those powers [France and Spain] to abolish the Slave Trade, but what I should depend on still more for the success of the proposal, would be the shame and scandal of refusing, when the main grounds of the objection that has been urged should be thus taken away, the Trades being carried on by the other and Rival powers in case they should relinquish it.

(Anstey 1992: 323)

The structure of the argument is highly revealing. In the absence of any appeal to commercial self-interest, i.e. that others would simply profit from unilateral abolition, there was no other justification that could exonerate those who persisted in the trade, and they would be exposed to 'shame and scandal'. Why should this be so? What is clearly presumed in Wilberforce's presentation is that the trade was wrong *in principle*. Moreover, to have this force, this principle must be accepted within a particular constituency, otherwise the infringement of it could scarcely bring about shame and scandal for the violator. What is the significance of this assumption, and what is the evidence that it was a reasonable one to make?

Let us backtrack briefly. This chapter opened with Britain's exploitation of its position at the Treaty of Utrecht to gain benefits under its terms for its own carriage of the slave trade. It has been commented in passing in one account that the 'international treaties of the European states acknowledged and regulated the trade in Africans', and that the Treaty of Utrecht 'had done so quite explicitly' (Blackburn 1988: 35). It may not be unreasonable to extend this logic to say that the international treaty system *legitimized* the conduct of the trade, and in so doing promoted its continuation, as being in conformity with what was acceptable to international society: the very act of regulation was implicitly permissive of the trade. Had this continued to be so, it is hard to see what shame and scandal could have then arisen for those involved in

ongoing participation in it. It is against this background that the campaign to secure abolition of the slave trade deserves a closer examination. Could international action be taken simply because of the successful political exploitation of the opportunities that now presented themselves, or was there a more fundamental transformation underway that gave rise to these possibilities? Otherwise expressed, we might ask what it was that created the new political opportunities in the first place. In doing so, we might want to reconsider the critical judgements made of the various international statements of the period as 'idle' and 'meaningless' (Nichols 1971: 171).

The argument will take the form of advancing two principal suggestions. First, the declarations of the early nineteenth century, whatever they lacked by way of concrete enforcement, were principally important in *delegitimizing* the slave trade, and their very issuance contributed to that end. Secondly, this delegitimation occurred within the bounds of international society, taking as it did the archetypal form of multilateral inter-state declarations, but international society was responding to a normative logic that had its origins in world society, not in its own activities strictly conceived.

The evidence for such claims is to be found both in the nature of the formal declarations that were undertaken, and in the specific wording that was employed within them. The latter went beyond the bounds found within traditional international society. Viewed from this perspective, those declarations, that otherwise have been construed as 'pious' and 'idle', begin to take on a new meaning and significance. Note, for instance, the specific formulations and appeals contained within the 1815 Declaration of the Eight Powers. Therein, the slave trade was portrayed 'by just and enlightened men of all ages, as repugnant to the principles of humanity and universal morality'. It drew attention to the fact that 'at length the public voice, in all civilized countries, calls aloud for its prompt suppression', and, in possibly its most striking and memorable phrase, referred to the trade as a 'scourge which has so long desolated Africa, degraded Europe, and afflicted humanity' (Hertslet 1875: 60–1).

On his return to Britain, Castlereagh was naturally defensive about what had been achieved, knowing full well the high expectations of the supporters of abolition within the House. Accordingly, when he addressed the Commons on 20 March 1815, he defended his achievement by insisting that 'it will be obvious that no small step has been gained, by inducing every Power in Europe *not only to pronounce against the general principle of the traffic in human beings*, but to pronounce in favour of its actual, final, and early extinction ...' (Webster 1921: 395, emphasis added).

Castlereagh's defence may well have been self-serving, but this does not diminish the force of his point that a new principle had indeed been



consensually and publicly agreed. States could, of course, thereafter violate or ignore the principle—as some were to do—but there would be costs entailed in doing so. It is difficult not to acknowledge that the terms of legitimacy had shifted significantly as a result of this statement. As one historian had concluded of Castlereagh's reasoning, he 'believed more could be achieved by separate negotiations after the publication of the Vienna proceedings and declaration *had given moral force to Britain's argument*' (Murray 1980: 56, emphasis added).

There is some parallel to be drawn between the British national abolition, and its wider international counterpart. Both relate to core issues of legitimacy. In the case of the British abolition, as we have seen, the prohibition of the trade to foreigners had been used tactically, as a sound aspect of national policy, to prepare the ground for total abolition, and in this way the case had 'cloaked humanity with interest' (Anstey 1992: 402). At the end, however, the abolitionists were eager to come 'clean', and to advance a more candid appeal to 'humanity and justice' instead. Wilberforce couched his argument on the tactics of domestic abolition in terms that were strikingly similar to those deployed with regard to multilateral international action. In a letter of 5 September 1806, Wilberforce wrote as follows:

[N]othing would enable us to resist the application that would be made to Parliament to rescind or at least suspend the measure but the disgrace which Parliament would incur in the face of the whole world by reversing on grounds of interest a Measure which it had expressly declared to have adopted on principles of Religion, Justice and Humanity. Our obtaining this recognition will alone enable us to withstand the torrent we shall have to encounter.

(Anstey 1992: 388)

His argument deserves close scrutiny. What it is saying is that, in order for the measure to be carried in the first place, an appeal to interest was essential as a political palliative. Once adopted, however, a different set of considerations came into play to maintain it in the face of any potential backsliding. The affirmation of general principles against the trade was essential to create this effect. There could be no steadfast adherence to the measure without an overriding principle to support it. It would be the assertion of the principle that would legitimise the prohibition, and underwrite its observance. Once again, it is noteworthy that Wilberforce imagines that 'disgrace' will befall those who sought to infringe the abolition. Disgrace is, of course, a social punishment that can arise only in the context of an actor's violation of generally accepted norms. Just as states would incur 'shame and scandal' if they persisted in conducting a trade that was now anathema, so Parliament would fall into 'disgrace' if it yielded on the high principles that it had already declared.

In both cases, the censure that would befall would be not merely that of political pressure and agitation, but a social reprimand resulting from violated norms. This could occur only if the norms were accepted, and recognized as a proper source of social action, and as a standard against which it should be judged. If we can detect this in the process of international abolition, we are witnessing something more than the mechanical interplay of political and economic forces, but additionally a normative process of mutually accepted social claims. We have entered the realm of legitimacy, not just of instrumental politics.

To this extent, the articulation of a *principle* against the slave trade was, in many respects, as important in the long term as what was, or was not, to be done in practice in the short term. The seeming banalities of the 1815 Declaration should, for that reason, not be so readily dismissed. The point is well made in one account:

Words could not sweep Spain, Portugal and France to immediate abolition, but a document could nail down the gains which had been made. Signing the declaration implied not only an eventual intention to prohibit the commerce, but acceptance that abolition was an issue of international concern, specifically because it was of humanitarian interest. Although no country was bound to end the traffic, neither could any reject diplomatic initiatives concerning it as interference in domestic affairs.

(Kielstra 2000: 52)

Anstey captures the extent of the intellectual shift in Britain by the 1780s in his considered judgement that ‘the content of received wisdom had so altered . . . that educated men and the political nation, provided they had no direct interest in the slave system, would be likely to regard slavery and the slave trade as morally condemned, as no longer philosophically defensible’ (1992: 95–6). That it had become so did not, by itself, translate into any immediate principles for international action. For this to occur also required some sanction, on a consensual international basis, of the essential principles at stake, and this is what was negotiated in the formative years after the Napoleonic wars, although the business remained far from fully complete until much later in the century.

These legitimacy principles changed at the level of international society. Why need we bring world society into the picture at all? The reason for doing so is that the pursuit of this objective seems otherwise inexplicable within the terms of international society alone. As we have seen, in a purely interactive sense, international society was responding to a set of political demands that originated elsewhere, from within world society. Moreover, these were not simply pressures that represented a kind of political *force majeure*, but were

understood, in addition, as reasonable and appropriate claims. This implies a social context, the nature of which it is essential for us to examine and fully understand. Additionally, however, the terms in which this recognition was to be granted was through a language that was largely alien to international society up to this point. It acknowledged the proper claim, as human beings, of a territorially non-sovereign people, whose fate lay unequivocally in the hands of international society.

As early as 1792, at the onset of war, British Prime Minister Pitt, addressing the House of Commons, appealed for Africans to be restored to 'the rank of human beings'. At war's end, Castlereagh wrote to the Russian foreign secretary, Capo d'Istria, to secure support against the slave trade. 'In laying down the maxims of Christianity as to the rule of conduct between state and state', he wrote, 'it would have been unworthy to have assumed a less benevolent principle towards Africa' (Thomas 1997: 591).

#### INTERNATIONAL LEGITIMACY AND ABOLITION

A number of key points emerge from the preceding analysis. They suggest that any attempt to understand the process of abolition that does not take fully into account the role of shifting normative principles will be impoverished. Precisely why these principles did shift within world society takes us well beyond the scope of this study, but that they did so, and formed part of the calculations of a variety of actors, is a social fact that should not be ignored. Moreover, resulting from this encounter, international society was to formulate a code of practice against the slave trade that rested upon general normative principles, hitherto largely alien to it. International society signed up to these principles, thereby making them its own.

What emerges from this discussion is not simply that actors had been subjected to a variety of political pressures, but that those pressures had arisen in large measure because of a wide acceptance of the principles underlying them: it was a shared normative framework that made possible the political pressures that others could then exercise. Notions of shame, scandal, and disgrace could not be attributed unless there was social substance to the condemnation that they implied. These are terms of opprobrium that operate only if, and to the extent that, they rest upon some kind of normative consensus. It was the function of those emerging norms to generate the context in which such social pressures could then become operative, first at the national level, but then internationally as well.

This is certainly not to deny that other political instruments were in play. Ideological revolutions seldom take place in separation from other facets of power politics, and norm entrepreneurs are more likely to succeed if they can draw upon powerful national resources to advance their claims. One survey astutely recognizes this connection. While accepting the ideological impetus coming from the Enlightenment and the religious movements of the period, it notes also that these ‘built on a European sense of power and superiority’ (Stearns 2005: 33–4). In an even more specific sense, the abolitionists’ conviction that they both could and should convert France was itself infected by an over-weening sense of British power (Kielstra 2000: 27–8). This does not, however, reduce the politics of legitimation to power politics alone. Sectors of civil society felt empowered by their ability to capture the policy of ‘vanguard’ states in their support, and this was a momentous ingredient in their final success. It is for this reason that the conclusion has been reached that what was important for the international deligitimation of the slave trade was not simply British power, but British credentials as embodying the wave of the future. ‘The fact that the world’s most advanced nation took the lead both in attempting to suppress the international slave trade and in a mass emancipation of her own slaves’, Davis (1984: 233) suggests, ‘put all slaveholding societies on the defensive’. Abolitionists in Britain were helped, in having their voice heard abroad, by the regard in which Britain was held by progressive elites elsewhere (Nadelman 1990: 494–5).

Such social pressures can operate only within an extant society. So what does this episode about the slave trade tell us about the pertinent society and its legitimacy principles in the early part of the nineteenth century? What has been asserted thus far is that international society *qua* international society was not likely to have undertaken the initiative to abolish the slave trade on its own account. Nonetheless, the unassailable fact was that only international society had the capacity to police and enforce such an international ban. If abolition were to be achieved, it had to be undertaken on an international basis. Accordingly, representatives of world society sought to persuade international society to undertake such actions, and to adopt the principles of abolition as its own. Elements of international society, at the same time, had their own good reasons to comply.

There were two main aspects to the ensuing encounter. The first concentrates on the level of political interaction, and produces telling evidence of the extent to which representatives of world society sought to influence international governmental policy on this question. The second develops instead the argument for a degree of merger between the two societies, arising from a shared normative framework. This is obviously the more difficult case to

sustain. However, to the extent that world society not only influenced international society into declaring against the slave trade, but the two came to operate within a social framework in which the claims of the one were recognized *as of right* in the other, it may well be the better analytical approach to adopt. The humanitarian norm that underpinned abolition thereby became a future part of the calculus of legitimacy with regard to the slave trade. However, it was also to have much wider ramifications for the practice of international legitimacy in the longer term.

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## The Hague and the Public Conscience, 1899–1907

It has been claimed that a ‘robust global civil society’ became evident during the course of the nineteenth century, and that during its second half there was a ‘great growth spurt’ (Keane 2003: 44). It is part of the rationale of this chapter to consider the two Hague peace conferences of 1899 and 1907 as the result of this process, and as partial evidence for the substance of that assertion. There is another reason for doing so. It has been suggested also that the world which summoned the conferences into being was a highly ambivalent one, a world of ‘blood and iron’ on the one hand, and the ‘dawning inklings of human rights’, on the other (Eyffinger 1999: 438). If the first part of this proposition is hardly contentious, the second warrants greater justification.

Unlike the other cases considered in this book, The Hague conferences seem not to be a defining moment in the formal adoption of any single norm in particular: they may have engendered a general mood or intellectual style, but did not formally subscribe to one identifiable norm. Certainly, what was embodied in the conferences was less specific than the norms considered elsewhere in this study. However, there is no gainsaying that this was a public forum in which certain new values were given a much more ringing endorsement than in any earlier such international gathering. This had both a substantive and a procedural aspect. Substantively, the conferences promoted the broadly humanitarian notion that international society had responsibilities for the welfare and well-being of humankind, and that these extended beyond the traditional concerns of international society. Procedurally, the meetings were significant for their explicit recognition that the values of international society needed to be endorsed by a constituency that stretched beyond the confines of the states system. For purposes of the ensuing discussion, these twin aspects are best captured by reference to the language of the ‘public conscience’: this idiom was both audible in the rhetoric of the conference, and also visible in the text of one of the key documents of the 1899 meeting. Although this might appear too general a sentiment to be considered a new norm, it was to be sufficiently substantiated in specific policy issues to carry some real import. Accordingly, it is the origins and significance

of these appeals to the public conscience that form the key focus of this chapter.

Any survey of The Hague meetings immediately provokes a number of interesting questions. In tracing the origins of the conferences, we are led to inquire into the role of this emergent global civil society in calling them into being. Was this simply an idiosyncratic initiative, undertaken by Tsar Nicholas II and other Russian officials, for reasons of Russian national interest? Even if so, did they take on a wider significance precisely because they tapped into a substratum of popular agitation and expectation? Alternatively, is the significance of those meetings to be traced less to their source, and more to the substance of the agenda that was pursued within them? Is the imprint of world society to be found, above all, in its injection of a dimension of humanitarianism into the security concerns of the period? More specifically, why did the meetings issue in a substantial corpus of humanitarian law of war when this was apparently not part of their original intent?

At first glance, The Hague meetings appear to be unusual choices for a study of the influence of world society. In one obvious sense, the reason for dismissing them is their tawdry reputation to date as empty gestures on the road to the First World War. On this estimation, they were as irrelevant to the period leading to the First World War as were to be the disarmament conferences of the early 1930s to the build up to the Second. Such dismissals will be considered further below. More importantly for this discussion, their irrelevance could be thought to lie in the fact that these were quintessentially gatherings of international society, not a common meeting ground with world society. This was categorically affirmed by the Russian President of the second Hague conference, Nelidow: 'We are the agents of our Governments and act by virtue of special instructions, based before all other considerations upon the interests of our respective countries', he told the closing session of the conference on 18 October 1907. 'The higher considerations of the good of mankind in general should no doubt guide us, but in applying them we must have uppermost in our minds the intentions of those who direct our Governments' (Scott 1921: 581). This was directly to the point, and suggests that The Hague might be an inauspicious location to uncover the dim presence of world society. The conferences' work on the laws of war was, as Best (1999: 625) suggests, a continuation of the 'long-established endeavours of the society of states'. More pointedly, the 1907 conference has been described as 'one of the last expressions of the "old diplomacy"' (Brailey 2002: 215). One of its participants later pointed out that The Hague gathering was a descendant 'not of the innumerable Peace Congresses . . . but of the diplomatic assemblies called . . . for peace between the Powers represented' (Holls 1914: 352). On this varied testimony, the two meetings seem to be so unambiguously a part of the

story of international society, as to preclude any serious role for world society in their conduct.

The reality, as we shall see, was considerably more complex. Nor should the two meetings so readily be dismissed as nugatory gestures. What was so distinctive about The Hague assemblies was precisely that they were summoned 'at a time of profound peace' (Beales 1931: 233), rather than at the conclusion of war. News of the first meeting had brought 'excitement and hope' (Best 1999: 621) to those concerned for future peace. The secretary of the British Peace Society recorded after the 1899 meeting that 'it was successful beyond all anticipation', and that it had augured 'a new era for mankind' (Darby n.d.a: 49). To be sure, not all returned such enthusiastic verdicts, and many hopes were to be dashed. The 1899 Resolution on disarmament, we are told, came as 'a bitter disappointment' (Beales 1931: 234). Similarly, the 1907 conference is said to have given rise to 'a feeling of disappointment' (Ceadel 2000: 166), and to a sense of 'chagrin' (Beales 1931: 265). One of the fundamental reasons why there was no universally agreed judgement about the outcome of the conferences was the basic difference in priorities: those who sought only the abolition of war were to be profoundly disillusioned by the laws and conventions of warfare promoted by the 'miserable comforters'; in contrast, those who considered abolition wholly unrealistic were to welcome the civilizing of war as a sign of tangible progress (Tuchman 1997: 239). Typically, the redoubtable Baroness von Suttner had dismissed The Hague work on the laws of war as 'irrelevant', since 'the very notion of war had to be abolished' (Eyffinger 1999: 67).

These divergent assessments of The Hague conferences will be considered further below. In short, however, the reasons why it is not so implausible to consider them as important instances in the encounter between world and international society are twofold. First, they provide further telling evidence of the political interaction between the two, as proponents of world society sought to conscript the instruments of international society to their cause. Secondly, and even more importantly, they offer an insight into their normative interaction. This is best evidenced by the humanitarian quality of their substantial undertakings, and is best encapsulated in the refrain of the 'public conscience' that was to resound through the hall of the first meeting place. Generally, this fundamentally humanitarian purpose linked all three aspects of the work of the conference—on disarmament, the laws of war, and arbitration (Best 1980; Rosenne 2001b). Specifically, the world-society imprint on The Hague outcomes is best revealed in the substance, and subsequent impact of, the Martens clause, to be considered in detail below.

It is relevant to note the judgement of one contemporary professor of international law, Walther Schücking. Although scarcely representative, his



view has a certain resonance. He claimed that The Hague conferences started ‘a process . . . which one could characterize as international law . . . being transformed into World Law’ (Schlichtmann 2003: 381), and he placed this within the context of his more general claim that The Hague conferences established a world confederation (Koskenniemi 2002: 217). Such a claim need not be accepted, but it is worthwhile to consider the reasons that possibly underlay it. We need first of all, however, to set The Hague conferences in their historical context.

### THE HISTORICAL BACKGROUND

The first Hague conference was summoned against a distinctive international background. Europe was already polarized into two opposing military alliances, self-consciously engaged in armament competition with each other. Ceadel is right to insist that the conference was called in a context in which there was ‘a greater depth of interest in war-prevention’, rather than ‘an increased depth of commitment to peace activism’ (Ceadel 2000: 151). There were other points of tension elsewhere. During 1897–8, there had commenced the ‘scramble for concessions’ in China. Russia’s major involvement in this episode was a culmination of its escalating competition with Britain in Asia, and this was an important influence on the origins of the conference. Britain meanwhile confronted France in North Africa, and the United States embarked upon its war against Spain. The tensions were not purely international. Historians continue to debate the extent to which increasingly expansionist foreign policies were being driven by domestic social and political problems, particularly in the case of Germany, which now embarked upon its *Weltpolitik*. A generation of rapid industrial growth had placed great pressures on traditional political institutions, and sharpened the ‘social question’ domestically. There was widespread concern among the rulers represented at The Hague that, if the conference delivered nothing, the beneficiaries of any failure would be Europe’s socialist parties (Tuchman 1997: 263).

Famously, the initiative for the 1899 meeting was taken by Russia’s Tsar Nicholas II who issued through his foreign minister, Count Muraviev, an Imperial Rescript on 24 August 1898, addressed to all the ambassadors at the court of St Petersburg. In emotive language, this denounced war, both for draining economic resources, and for its generally negative impact on civilization. It appealed for a meeting at which steps could be taken to halt the unfolding arms race: ‘the Imperial Government believes that the present moment would be very favourable for seeking, by means of international

discussion, the most effective means of ensuring to all peoples the benefits of a real and lasting peace' (Scott 1916: 1–2). The Rescript struck a profound chord with anti-war peoples everywhere (Eyffinger 1999: 55). It was hailed by one prominent British Quaker as 'the greatest event of my life' (Ceadel 2000: 151–2). It certainly astounded many more (Beales 1931: 231). Heartened by the largely positive response accorded the original letter, Count Muraviev circulated a second on 30 December 1898. This included a more detailed programme of activities, and betrayed a striking shift of emphasis. While the original Rescript had emphasized the great cause of disarmament, the second detailed the work of eight sections 'from which its dramatic change of orientation became apparent' (Tate 1942: 269; Eyffinger 1999: 38). Disarmament was now confined to one section alone. Instead, much of the work was now to be devoted to the consideration of new weapons, and to the systematic codification of the laws of war. The idea of international arbitration was added as a further novel element (Tuchman 1997: 251). In general, it would appear that the ruling and diplomatic establishment found these specifications for the conference much more congenial than the original (Eyffinger 1999: 39). And yet even this less emotive, and more realist, document contained one striking statement. While acknowledging the 'sympathetic terms' in which the invitations had been received by the representatives of the Powers, it went on to remark: 'the Imperial Cabinet has been also able to collect, with lively satisfaction, evidence of the warmest approval which has reached it, and continues to be received, from all classes of society in various parts of the world' (Scott 1916: 3). What significance, if any, we should attach to this observation, made by one of the most autocratic governments of Europe, will be discussed further below.

The 1899 Hague conference was attended by twenty-six states. They were mostly European, with the exception of the United States and Brazil, and four countries from Asia (China, Japan, Persia, and Siam). The second conference held in 1907 was an even more broadly representative affair, as forty-four countries participated. Of these twenty-four were non-European, mostly from Latin America (Hinsley 1967: 141–2; Best 1999: 623). The President of the conference recalled that this 'is the first time that the representatives of all constituted States have been gathered together to discuss interests which they have in common and which contemplate the good of all mankind' (Scott 1921: 582).

The work of the 1899 conference, as has been mentioned, was divided into three conventions. These concerned disarmament, weapons and laws of war, and arbitration. Its outcomes were mixed. The discussions on disarmament, as expected, made very little headway, and issued merely in a resolution of no binding force. As the minutes of the Sixth Meeting of 21 July 1899 recorded,

'the restriction of military charges' was considered 'extremely desirable for the increase of the material and moral welfare of mankind' (Scott 1920: 90). That it issued in little substance comes as no surprise. It was never likely that public sentiment could be decisive on an issue that had 'come from above and was not forced by pressure of opinion from below' (Tate 1942: 163). The work on the rules of warfare was highly important, and served as a critical extension of the earlier efforts of the 1860s and 1870s (Best 1980). On arbitration, it could make no progress beyond voluntary arrangements, and to that extent was a modest achievement. It did, however, establish a permanent framework, and needs to be understood as a fundamental precursor of the League machinery in this regard. The limited agreement that was reached, however, was itself achieved only by a narrow margin. The German Kaiser had resisted all such proposals to date, and relented only at the very end. The head of the American delegation recorded his concerns about Germany's attitude to arbitration on 13 June 1899, noting that 'the German Emperor is opposing arbitration', and warning of the danger of a 'catastrophe' (Scott 1909, i: 73). Finally, the Kaiser admitted in a revealing annotation of a document, 'I consented to all this nonsense only in order that the Czar should not lose face before Europe' (Tuchman 1997: 265–6; Davis 1962: 161). Instructions to the German delegation had, in any event, been to support a 'harmless agreement', in order to prevent 'the Tsar's efforts being a complete failure' (Tate 1942: 277).

If anything, the 1907 conference achieved even less. This is reflected in one commentary. In sharp contrast to his effusive rhetoric of commendation on the 1899 meeting, the secretary of the British Peace Society restricted his 1907 volume to a factual account only (Darby n.d. b). It had been US President, Theodore Roosevelt, who had originally proposed this second conference. However, nothing could be done until the Russo-Japanese war of 1904–5 was out of the way, at which point the Tsar regained the initiative, and issued the invitations on 14 October 1905. The British government immediately pressed for reduction of armaments to be included in the conference, as the Foreign Office papers testify (UKFO 1907a). Foreign secretary Grey had urged this upon the Russian Ambassador, as a paper of 12 April 1907 (UKFO 1907c) confirms. The Foreign Office instructions (UKFO 1907b), of 31 May 1907, revealed that the government had all along 'been desirous of seeing the question of expenditure on armaments discussed', and enjoined the delegates to lend support to their American colleagues if they raised it. Despite the earnest endeavours of the new Liberal government in Britain, and of Prime Minister Campbell-Bannerman—who had published an article supporting the limitation of armaments in March 1907—disarmament scarcely featured on the conference agenda. German Chancellor von Bulow had made it known that any such proposal would receive short shrift in any case

(Morris 1971: 383–6). So what was the significance of the conferences, and what have historians found to be controversial about them?

## THE DEBATES ABOUT THE HAGUE CONFERENCES

What have mainly preoccupied historians since 1899 are two inter-connected issues: how we should regard the significance of the conferences, and what were the motives of the principal participants? These are inter-connected because the significance can only be assessed in the context of the possibilities for achievement, and the latter was circumscribed by the motives and intentions of the key players. Among the abiding mysteries have always been Russia's reasons for instigation of the meeting in the first place.

We have already commented upon the assessments of the significance of the conferences in a general sense. That of 1899 certainly evoked a groundswell of high expectations among the broad mass of the contemporary peace movement, and against that it was almost certainly doomed to dash the highest of hopes. That said, it managed to retain its redoubtable champions in some quarters, as in the praise heaped upon it by Darby (n.d.a). There is no need to rehearse the many condemnations of The Hague for its purported failures. In terms of what was to be achieved in the short term, these were only too accurate. The historian of the United States role at The Hague conferences concluded of the 1899 meeting that it was 'essentially a failure', and that its various products were 'paper achievements—masks concealing failure' (Davis 1962: 212–13), even if he was later to qualify this as too harsh (Davis 1975: vii).

There is, however, another perspective, and it is composed of two main strands. The first draws our attention to the nature of the gathering, and what it signified for future developments. It was, in some respects, to prove a rehearsal for the subsequent peace conference held in Paris in 1919. 'The repute of the conference was ground not just between the clashing interests of States', we are told, 'but likewise...of non-governmental organizations such as the Red Cross and peace societies, interparliamentarism and feminism, separatist movements, socialists and anarchists, Zionists and Quakers' (Eyffinger 1999: 5). Thus viewed, the conference was of long-term import because of the range of the organizations and peoples who participated. This was to be no narrow Concert of Europe, but rather a 'new kind of creature altogether...challenging the older order' (Sharwood 2001: 455). 'Few diplomatic conferences since 1899', it has been noted, 'have permitted so much "leakage" and socializing between the private and official worlds', and

from that perspective, the conference was a 'first of its kind' (Cooper 1983: viii).

Secondly, it has been insisted that we need to take a longer-term perspective upon its results. What was to be of great consequence was not just the particulars of the agreements, but the nature of the process set in train. This was the perspective adopted, even at the time, by British Prime Minister Lord Salisbury. He told Parliament in 1899 that advances on arbitration and the humane conduct of warfare would provide a service 'of which the whole value cannot be appreciated at once, but to which the future inhabitants of the earth will look back with gratitude' (Tate 1942: 273). What should attract our attention 'was the debate on principle itself' that took place: 'here, the clash of the old and the new world is revealed; here, the first confrontations ever, on any appreciable scale, of strict nationalism and global thinking becomes manifest' (Eyffinger 1999: vi–vii). The nature of this 'global thinking' will be considered in due course.

However, any sensible appraisal of The Hague conferences must begin with some estimate as to why they had taken place at all. It is this issue that 'baffles scholarship' today, as much as it startled the diplomatic community at the time (Eyffinger 1999: 16). This is not the place to pursue the issue in its full complexity, but the question of motives does have a direct bearing upon the discussion to follow.

The fault-lines running through the current assessment of the driving forces behind the Russian initiative have persisted in much the same form throughout the past century. To some, the compelling consideration was a combination of Russian security concerns and economic indigence (Best 1999: 622). To others, the Rescript bore the personal stamp of the Tsar, and not for the first time a Russian Tsar had given expression to an idealist and populist impulse (Morrill 1974: 296–7). This presents us with accounts of state action that range between material interest, on the one hand, and principle, on the other. Such a stark dichotomy makes no allowance for the possibility of interest derived from principle. Conceived in these terms, the two become extremely difficult to unravel. To some, the interest so clearly outweighs the principle that the Tsar's programme is to be seen as 'conceived in fear, brought forth in deceit, and swaddled in humanitarian ideals' (Davis 1962: 43). By way of contemporary evidence, the Japanese minister in Brussels had reported two possible explanations for the Russian initiative. First, he presented it as a personal quest on the part of the Tsar, and rooted in a deep conviction about the desirability of peace. Secondly, in the face of British agitation about the course of Russian diplomacy in China, he thought it an attempt to assuage international concerns by presenting Russia's peaceful face to the world (Schlichtmann 2003: 382; Davis 1962: 46–7).

There is broad agreement that the genesis of what was finally to transmute into the Imperial Rescript is to be found several months earlier in March 1898. On that occasion, the new minister for war, Kuropatkin, was studying the implications of the adoption of rapid-fire guns by the German and Austro-Hungarian armies. Militarily, these represented a serious threat to Russian forces. Financially, the costs of matching such a programme by introducing them to the Russian army was prohibitive, at a time when Russia was embarked on a major programme of investment in economic infrastructure, at the behest of finance minister, Count Witte (Tate 1942: 193). Kuropatkin decided that one way of squaring this particular circle was by a bilateral arrangement with Vienna for a ten-year moratorium on their introduction to either army. If Austro-Hungary could be persuaded to agree, the problem would be at least deferred (Ford 1936: 362; Morrill 1974: 298; Eyffinger 1999: 20–1). To the extent that this was so, historians have been persuaded that the initiative was not the Tsar's, but lay elsewhere (Tuchman 1997: 236). Matters are not, however, quite so straightforward. First, it has to be remembered that Kuropatkin needed to persuade the Tsar to endorse the scheme. Second, Kuropatkin's original proposal is not the same as that contained in the final Rescript in any case.

Kuropatkin met with Nicholas on 12 March, and apparently the war minister did not dwell upon economic considerations: 'by taking this "noble initiative", Kuropatkin asserted, the Tsar "could assure for himself" a place in history, the place "of being remembered always as the first ruler who told the world that the money presently spent on military forces could be better used to uplift the well-being of the civilian population"' (Morrill 1974: 299). This, to be sure, does not amount to evidence of humanitarian intent, only of the potential appeal of such arguments to the vainglorious Tsar.

Even if the original impulse was Kuropatkin's, his was a proposal for a bilateral arms agreement with Austro-Hungary. This was not what the Imperial Rescript finally envisaged, and so there had been a period of further development of Russian thinking after March. Two factors then come into play. Firstly, there were to be discussions between the Tsar and Count Muraviev, as a result of which the bilateral scheme of Kuropatkin finally transmuted into a scheme for a multilateral conference at the hands of the foreign minister (Morrill 1974: 301–2). Secondly, there are the reports of the cameo role played in the affair by the slightly enigmatic figure of A. Bazili, now head of the Asiatic division of the Russian foreign ministry, but formerly Russian Consul-General in Hungary. While resident in Budapest, he had attended sessions of the Universal Peace Congress held there in 1896. Although his initial report promoting the cause of an international conference to discuss armaments had apparently been ignored in St Petersburg, it was dusted down in the more

receptive atmosphere of April 1898, and given a second airing (Tate 1942: 174–6; Morrill 1974: 303–4). Bazili's role in bringing the Russian scheme to fruition was apparently later promoted by British publicist W. T. Stead (and possibly for self-interested reasons), but the latter may have been given the story in his personal interviews with Tsar Nicholas, preparatory to The Hague meeting in 1899 (Ford 1936: 360).

By the end, these various disputes about authorship and intentions remain largely inconclusive. One early assessment dismissed the 'idealist' and 'humanitarian' interpretations, as amounting to no more than 'lip service', and offering a convenient 'front' for a hard-headed Russian project (Ford 1936: 381). Later assessments have been more balanced, and are content to leave it that 'neither pragmatism nor idealism monopolized the scene' (Morrill 1974: 313). The point of this contribution is not to resolve this matter, but to investigate it as a preliminary to the discussion to follow. In short, its argument is that the significance of The Hague goes beyond issues of authorship, motives, and intentions, as it came to be seen and understood as something more than had been initially envisaged by any one of the individual players.

To round out the discussion, there remains only the task of making some comments on the objectives of other participants, beyond that of Russia as instigator. According to one diplomatic report of the time, sent by the US chargé d'affaires in Russia to US Secretary of State Hay on 9 November 1898, 'the general consensus of opinion among the members of the Diplomatic Corps now present appears to be that the proposition is visionary and Utopian, if not partaking of Quixotism' (Holls 1914: 18). This is consonant with the general reaction that 'ranged from strong reservations to utter scepticism with respect to the pragmatic feasibility of the propositions' (Eyffinger 1999: 25). If this was the collective sentiment, various national responses reflected individual concerns and priorities. For example, in the case of the United States, the attitude differed considerably with regard to the three areas of work to be undertaken at The Hague in 1899. With regard to disarmament, the advice to the US delegation was dismissive, at least insofar as concerned the American role. Secretary Hay's instructions advised the delegates that such disarmament was 'so inapplicable to the United States that it is deemed advisable for the delegates to leave the initiative upon this subject to the representatives of those Powers to which it may properly belong' (Scott 1916: 7). Hay was slightly warmer on the conventions of warfare: these, he considered, 'may well awake the cordial interest of the delegates, and any practicable propositions based upon them should receive their earnest support' (Scott 1916: 8). He reserved his strongest enthusiasm for the subject of arbitration, and commented that the 'logical order is first arbitration and then disarmament' (Scott 1916: 21). The US delegate, Mr Holls, warned the

Seventh Meeting on 25 July 1899 that 'we should have accomplished nothing positive if we separated without having established a permanent tribunal of arbitration' (Scott 1920: 130) In this respect, US governmental instructions were broadly in line with the wider sentiments of the American peace movement. 'So interested were leaders of the American Peace Society in arbitration', its leading historian has remarked, 'that they seemed for a time to lose interest in Nicholas II's conference on armaments' (Davis 1962: 55). Nor was this concentration on arbitration confined to the Americans. A Swiss delegate, Mr Odier, supported his Italian counterpart in pressing the case for arbitration, and advised that if the Conference failed in this respect, we 'should cause universal disappointment for which the responsibility would weigh heavily upon us and upon our Governments' (Scott 1920: 129). So how great a role did such non-governmental organizations play in the shape and outcome of the conferences?

#### THE HAGUE AND WORLD SOCIETY ACTION

As already noted, our interest in The Hague conferences needs to move beyond the motives and intentions of the key players. Whatever *they* had in mind, there remained the potential for the occasions to acquire a significance that was not of their own making. In this section, we turn to the suggestion that The Hague meetings afford excellent examples of world society in action, in that the activities of the official representatives were shadowed by powerful constellations of civil society activists, all seeking to place their own stamp on the eventual outcomes. As one leading historian of the period was to remark, 'the delegates were uncomfortably aware of the conscience of the world over their shoulder' (Tuchman 1997: 257; cf. Tate 1942: 351). To this end, arrangements had been made for some access by the press to the conference 'to take into account the legitimate curiosity of the public as to our own work' (Scott 1920: 20). At the first level, this represented a straightforward popular pressure upon individual governments to respond to domestic demands. It took the form of national agitations on behalf of the conferences in general, and in support of certain objectives in particular. These were most vibrant in Britain, but certainly not confined to it alone.

The general impression is that The Hague conference evoked a groundswell of popular sentiment that had no parallel since the anti-slave trade campaigns of the Napoleonic wars. Britain, during 1898–9, witnessed 'massive peace campaigns and crusades launched all over the country' (Eyffinger 1999: 32). It is difficult to obtain a precise sense of the scale of all this, but all historical



accounts emphasize their importance and contemporary impact. Between the Rescript and the convening of the first meeting, the British Peace Societies produced and distributed 300,000 supportive pamphlets (Beales 1931: 231; Tate 1942: 206; Eyffinger 1999: 59). Dr Darby, secretary of the British Peace Society, sent a telegram of congratulations to the Tsar on his initiative in getting the conference underway (Tate 1942: 198; Eyffinger 1999: 58). But this was only the tip of the larger iceberg of activities throughout the country. Tuchman gives a keen sense of what was going on in her lively portrait:

public enthusiasm could not be flouted in England. In the four months following the Czar's manifesto, over 750 resolutions from public groups reached the Foreign Office welcoming the idea of an international conference and expressing the 'earnest hope' ... that Her Majesty's Government would exert their influence to ensure its success... The resolutions came not only from established peace societies and religious congregations but from town and shire meetings, rural district committees, and county councils.

(Tuchman 1997: 244–5)

Tuchman notes that the Prime Minister, Lord Salisbury, tracked this public opinion, initialling the resolutions as they came in. There is other hard evidence that he took the campaign seriously. On 24 October 1898, Salisbury wrote to the British ambassador in St Petersburg, acknowledging the 'cordial sympathy' of the government with the Imperial Rescript. He went on, additionally, to make this observation: 'that this sympathy is not confined to the Government, but is equally shared by popular opinion in this country, has been strikingly manifested since the Emperor's proposal has been made generally known by the very numerous resolutions passed by public meetings and societies in the United Kingdom' (Holls 1914: 14–15). The pressure persisted. For example, on 21 March 1899, a convention in support of the conference was held at St Martin's Hall, and a delegation headed by Lord Aberdeen handed a Memorial to the government. Mr Balfour, receiving it, commented that these views had been collected 'throughout the length and breadth of the land', and would be considered sympathetically by the government (Eyffinger 1999: 63).

Britain may represent the best example, but was by no means an isolated case. Women's movements were prominent internationally in campaigning on behalf of the conference (Tate 1942: 204). For example, a Japanese princess collected more than six thousand signatures on behalf of the ladies International Peace Association, and in support of The Hague conference (Schlichtmann 2003: 384). Madame Selenka, we are told, presented a petition bearing the signatures of 'millions' of women from eighteen countries, and Madame Wazkiewicz of the Dutch Peace Crusade bore a petition with some 200,000 signatures (Davis 1962: 99–100). The head of the US delegation,

Andrew White, recalled being inundated by people with 'plans, schemes, nostrums, notions and whimsies of all sorts' (Tuchman 1997: 257). On 26 September 1898, the American Peace Society had fired off a congratulatory message to Nicholas II, and had also addressed President McKinley with a demand that his delegates present to the conference a general arbitration treaty (Davis 1962: 54). When The Hague delegations looked over their shoulder, this is what confronted them.

In order to understand this explosion of popular opinion in support of the conference, we need to place it in the context of the activities of the contemporary peace movement. That movement had grown apace across Europe in the aftermath of the Napoleonic war, and again during the middle decades of the century, in response to civil war in the United States, and the series of wars in Europe (Stevenson 1996: 105). We are told that by the end of the century, there were 425 peace organizations across the globe, the majority of which were to be found in Europe, but also in the United States, Japan and Australia (Beales 1931: 242). There were at least two broad strands to this movement. The first was that in which ordinary people and groups could become involved, and its major international manifestation was to be a series of peace congresses held after 1889 (Tate 1942: 69).

By the beginning of the twentieth century, these had become annual events, with gatherings held between 1901 and 1906 in Glasgow, Monaco, Rouen, Boston, Lucerne, and Milan (Tuchman 1997: 280). The one held in Milan appeared to display some rift between the mainly British supporters of a project for disarmament, and the continental European advocates of a scheme for greater justiciability among states (Morris 1971: 382). The other branch was the inter-parliamentary union, formed in 1888 (Tuchman 1997: 233; Best 1999: 620), whereby the cause of peace was to be advanced directly by meetings between various parliamentarians. It came to be identified especially with the cause of arbitration (Tate 1942: 89, 92).

This movement, perhaps unsurprisingly, occasionally caught the eye of members of government. It was, for instance, exactly such a meeting held in St Louis in the USA that was to trigger the US administration into the call for a second Hague meeting. When floating the possibility of such a second meeting in a letter of 21 October 1904, US Secretary of State Hay remarked that 'among the movements which prepared the minds of Governments for an accord in the direction of assured peace among men, a high place may fittingly be given to that set on foot by the Interparliamentary Union... Its annual conferences have notably advanced the high purposes it sought to realize' (Scott 1916: 59). Whether this amounts to evidence of real policy influence, or should be thought a formally polite platitude, is difficult to assess. In general, a number of historians have been curtly dismissive of this

kind of impact, whether from the parliamentarians or the peace movement more generally. One concludes bluntly that the peace movement 'had grown sufficiently for politicians to pay lip service to its nostrums', while, with regard to the Tsar's Hague initiative specifically, 'the Russian Government was aware of the activities of the peace societies but much more concerned about the cost of supplying its army with quick-firing guns' (Stevenson 1996: 105).

That there was, nonetheless, a substantial transnational campaign in support of peace through the instrument of The Hague conferences is not in any doubt. When the Imperial Rescript was issued, 'a universal campaign was promoted by the Peace Bureau at Berne' (Beales 1931: 231), on behalf of the proposal. Best claims it to be the 'first ever occasion' in which an intergovernmental diplomatic meeting was accompanied by 'a great show of organized public opinion', equivalent to a 'fringe meeting' (Best 1999: 623). People from all walks of life turned up at The Hague to make their opinions known. The American delegation later reported to secretary Hay the great numbers who were present, and bore testimony to how the conference representatives were 'deluged with books, pamphlets, circulars, newspapers, broadsides, and private letters' (Scott 1916: 24–5). Despite some initial efforts to exclude the press, this was not a diplomatic meeting sitting in sedate seclusion from popular expressions of concern. Indeed, the conference appointed a committee to deal with 'external relations' with those bodies seeking to communicate with it, and was forced to make substantial concessions to press reporting (Sharwood 2001: 456). Many there in person were delegations from national and ethnic groups, such as Poles, Finns, Armenians, and Macedonians (Holls 1914: 326–9). One commentator, speaking of the unusual role that Russia played in the orchestration of the meeting, notes the 'pains taken' by this less than model popular state to 'involve all levels of society in the project and to speak directly to the peoples' (Eyffinger 1999: 35). The whole affair of the first Hague meeting has been summed up as follows:

scores of 'peace societies' travelled to lobby the official conference delegates. A petition signed by millions of women in eighteen countries was presented . . . The event had all the qualities of a 'parallel' NGO forum designed to use an intergovernmental meeting as a platform for publicising grievances and lobbying for different government policies.

(Keane 2003: 48–9)

Many people who attended the meeting certainly felt it to be a turning point, regardless of final outcomes, simply on the basis of this level of popular agitation and participation. The secretary of the British peace society felt confident that the meeting had demonstrated 'a new illustration of the power of public

opinion'. He sensed that diplomatic representatives, who had attended initially with a show of going through the motions, were subsequently galvanized by the pressures upon them to a more substantial achievement than had been foreseen: 'the men of politics and diplomacy', he averred, 'were first silenced, and then transformed into active agents' of the cause of peace (Darby n.d.a: 54).

The activities of the societies were sometimes replicated, or personified, in that of particular individuals who took upon themselves the role of transnational actors. One such was the ubiquitous British publicist, W. T. Stead. It was he who saw the prospective Hague conference as a 'major opportunity' (Ceadel 2000: 152), and he cut a figure during both of the meetings. In the latter part of 1898, he embarked upon a tour of the capitals of Europe with the explicit intention of whipping up support for a successful conference, and to try to coordinate various national leaders towards some effective common purpose. He saw some, but certainly not all, of the leaders that he wished to interview, culminating with Tsar Nicholas (Eyffinger 1999: 61; Ceadel 2000: 152). He appealed also, with very mixed results, for a demonstration of solidarity by citizens in undertaking an International Pilgrimage on behalf of the conference. This was to be a predominantly Anglo-American venture, processing across the United States from San Francisco to Washington, then gathering in London and onwards for a tour of European capitals. This evinced less support than he had wished (Davis 1962: 58–9).

He did much the same in the build-up to 1907. He announced another such pilgrimage to lend support to the second conference, and it is interesting to see the specific terms in which he issued his appeal through an open letter to the world's press on New Year's Day, 1907:

I appeal to the friends of peace everywhere to take steps energetically to support the initiative of the British Government... It is only by pressure from below that those who rule can be stirred to action. In every land the next three months shall be utilised for the purpose of evoking an expression of public opinion upon this matter. On the eve of the Conference a pilgrimage of peace composed of leading representatives of the advocates of the League of peace in every nation should proceed from Court to Court, from capital to capital, pleading for this policy.

(Morris 1971: 382)

The second conference saw a repeat of the tidal wave of communications and representations from public bodies. The official record notes the telegrams, letters, petitions, books, and pamphlets received, and lists many of the principal organizations that had made such approaches. Among these, it notes the document of the *Conseil international des femmes*, with two million signatures from twenty countries, and two million signatures from the American Peace

Association. Many of these were delivered by special delegations (Scott 1921: 60–2, 578–8). There was awareness, in particular, of the demands for action on disarmament, which had been all but sidelined from the conference. When the British delegate, Sir Edward Fry, raised the subject, the conference President Nelidow acknowledged its importance: ‘yet the seed sown at the time of the First Conference’, he noted, ‘has germinated independently of the action of the Governments. A very emphatic movement of public opinion has arisen in different countries in favor of the limitation of armaments’. He added that governments ‘find themselves confronted with manifestations which they are not in a position to satisfy’ (Scott 1921: 92).

Did all this make a difference? This is extremely difficult to tell, but depends critically upon the sense in which that difference is to be understood. Best offers a balanced judgement that seems nonetheless to come down in favour of minimizing, if not dismissing, the achievement. He records the retrospective assessment of the peace movement as being ‘very much as the statesmen managing it hoped it would be viewed’, and substantively that was that the two Hague conferences combined had marked ‘certain steps, small perhaps but concrete, in the institutionalization of internationalism and the propaganda of peace’ (Best 1999: 140). It is clear from this verdict who it was that remained in control. This is further backed up by his considered view that the statesmen ‘were conscious of the same need to appear to satisfy the expectations and longings of the peace movement, while sacrificing none of the essential demands of the movement for war’ (Best 1999: 139–40). In terms of the immediate policy outcomes, there is no need to dissent from such a view. In the end, we must be mindful that the country that had taken the initiative in the first place, namely Russia, was the one least influenced by direct popular sentiment.

The question that remains to be asked is whether there might have been any longer-term significance attached to the conference that could have exceeded the intentions of the state representatives, regardless of how much in control they appeared to be at the time. There is one less obvious way in which world society left its distinctive imprint upon The Hague meetings, and this outcome was itself symbolic. This was in according them the name of ‘peace conferences’. As we have been well reminded, when the first meeting convened it was a ‘nameless’ body. ‘The public, however, acclaimed it as a Peace Conference... The delegates unconsciously took up the name, and without any formal vote it was recognized by them’ (Scott 1917: xviii). This was to be acknowledged by the President of the conference, Mr Staal, on 20 May 1899: ‘The name “Peace Conference”, which the popular mind, outstripping a decision by Governments in this respect, has given to our meeting, well indicates the essential object of our labours’ (Scott 1917: 8). At the very least,

it was the world society outside the doors of the conference that succeeded in giving it its name.

In what way, then, might the gatherings of 1899 and 1907 have served to redefine the norms of international society in their aftermath? To attempt to address that question, we need to explore The Hague not simply as an episode of social pressure upon the states system, but as possibly contributing to the redefinition of the permissible relations between international and world society, and hence of the proper bounds of international legitimacy.

### THE HAGUE CONFERENCES AS WORLD SOCIETY CLAIM

If this encounter at The Hague conferences is to be understood as making a lasting contribution to the normative structure of international society, then there are three possible ways of supporting this argument. The first is through the interesting language of the conference, and its often self-conscious differentiation between the world of states and the world of people, implying the need for a more effective accommodation between the two. Secondly, it is possible to explore the normative structure of humanity/humanitarianism as an attempt to redefine the boundaries of international legitimacy. Thirdly, and as a specific illustration of the former, we may consider the content and significance of what has come to be known as the Martens clause. What do these features, singly or collectively, signify for the wider contours of this argument?

The discussions at The Hague Conferences repeatedly made claims to a distinction between states and peoples, and governments and peoples. The distinction appears, suggestively, in the Imperial Rescript, although that document adopts no consistent form of language. The proposed conference, it is said, 'is in conformity with the most essential interests and the legitimate aspirations of all Powers', but also promises to be 'the most effective means of ensuring to all peoples the benefits of a real and lasting peace'. It takes as its starting point that the 'longing' for a state of peace had become 'especially pronounced in the consciences of civilized nations'. It concluded that agreement on limitation of armaments, along with sound principles of equity and law, were the bases on which 'repose the security of States and the welfare of peoples' (Scott 1916: 1–2). These various distinctions, conflations, and juxtapositions are interesting, and suggestive of a gathering that was conscious of a social constituency to which it bore some responsibility: this extended beyond the scope of the governments represented in the main chamber.

Similar language was to be echoed in the proceedings of the conferences on a number of occasions. We can note only a few key examples. The President of the first Hague conference, Mr Staal, described the significance of the measures for arbitration as acceptance of an international duty for the maintenance of peace. The conference had declared, he reasoned, 'that the concept of this duty, henceforth for ever introduced into the conscience of peoples, is in the future to be impressed upon the acts of governments and nations' (Scott 1920: 137). Even more vehemently did the US delegate, Mr Holls, make appeal to such imagery. He deduced the obligations of states from the prior obligations of peoples, and asserted 'the existence of a moral duty on the part of the States as a corollary of the joint and several liability which unites peoples' (Scott 1920: 137). Referring to the groundswell of public support on behalf of a permanent tribunal of arbitration, he drew the striking conclusion: '[W]e, the members of the Conference, are bound, so to speak, by a most solemn moral obligation, incurred, not between the Governments, but between the peoples of the civilized world' (Scott 1920: 716). In this respect, his logic ran, international society had to take its cue from world society, not because it was pressured to do so, but because it felt *bound* to.

More generally, the conference proposals and agenda, as well as its surrounding rhetoric, were suffused with appeals to humanity and humanitarianism. This would be less noteworthy had it not been a relatively straightforward meeting of representatives of states. It is precisely the adoption of this language within the confines of an intergovernmental gathering that is so striking, and certainly marks a significant departure in this respect. In his otherwise fairly sceptical account of The Hague proceedings, Tate summarizes that it was an 'epoch-making fact that a Congress of world powers' had actually come together at all 'to consider and discuss the application of the general and fundamental principles of justice and humanity to international questions' (Tate 1942: 292). We need record only the highlights of this tendency at this point.

Perhaps unsurprisingly, this perspective is to be discovered most explicitly in the retrospective judgements of the peace campaigners. In his introduction to the record of achievement of the first Hague meeting, W. Evans Darby, the secretary of the Peace Society in London, was at pains to make this more general point. He portrayed the conference as marking 'a progressive step in the self-consciousness of mankind to a higher realm of truth, to a better idea of humanity, to a closer bond of sympathy and to a more imperative form of duty'. It edged us towards the Republic of Nations 'in which all mankind shall be members' (Darby n.d.a: 64). The Rescript, he claimed, had been endorsed by the collective public voice, since war and the preparation for it were 'injurious both to the State and to the individual'. He concluded

that ‘such an admission by the united judgement and voice of the civilised world’—by which he clearly meant the combined voices of state and non-state actors—would not go unheard (Darby n.d.a: 51). What The Hague so vividly symbolized was this ‘great forward movement of humanity’ (Darby n.d.a: 50).

Had this been the language of the peace supporters alone, there would be little reason to attach overly much importance to it. But it had been adopted, indeed promoted, by state representatives as well. As the preparations developed for the second Hague meeting, the Russian ambassador wrote to the US Secretary of State to outline the possible programme. He explained that the Imperial Government ‘had in view the necessity of further developing the humanitarian principles on which was based the work accomplished by the great international assemblage of 1899’. He also attached great importance to the positive reception accorded the invitations by the now wider circle of states that were involved, as indicating ‘the depth and breadth of the present sentiment of solidarity for the application of ideas aiming at the good of all mankind’ (Scott 1916: 66). That this was a rhetorical flourish is in no doubt, but this does little to minimize the fact that the flourish should have been executed in this particular form. Whatever its own private motives, the Russian government was buying into a particular humanitarian agenda as a fit and proper set of issues to be discussed at an inter-state conference. As the Russian President of the Conference had suggested at its second meeting, on 20 May 1899, ‘the ties which bind the various branches of the great human family are ever drawing them closer to each other’ (Scott 1920: 18). In his closing address, he was to repeat the ringing phrase incorporated, as will be seen below, in the Martens clause, which referred to the ‘exigencies of the public conscience’ (Scott 1920: 255).

These flourishes might be thought too general to sustain a weighty argument. For this reason, we can demonstrate the same conclusion by appeal to a more specific development, namely the Martens clause in relation to weapons and conventions of warfare. In part, the importance of the clause lies in its content. However, much more significantly, the example is noteworthy exactly because it demonstrates how a form of words can take on a meaning and resonance that far surpasses the author’s original intentions. It was not what the Martens clause was written to be that matters, but what it was in practice to become.

If anything, the Martens clause was devised to address a very specific point at issue, and was scarcely thought as affirming a general and enduring principle. Additionally, it was a device to get out of a political problem, rather than intended as a universal normative principle. The disputed point had been the extent of the protection to be accorded to civilians undergoing military occupation. The delegate from Belgium, with uncanny prescience, was



concerned that the proposals amounted to a legal sanction for unlawful military seizure and occupation, and he wondered whether it was not best 'to adopt no provisions except such as would admit the fact without recognizing a right in the victor' (Scott 1920: 417–18). From the other side, it was equally felt that occupation had to be subject to legal sanction, in order to limit the power of the occupier. The choice, in short, was the difficult one between 'the fear of appearing by an international regulation to legalize as a right the actual power exercised through force of arms', as against the opposite risk of not regulating it at all, and thereby losing 'the invaluable advantage in a limitation of this power' (Scott 1920: 417–18). Unable to find agreement that would accord the same protection as combatants under the conventions of warfare, but unwilling to leave hapless civilians wholly at the mercy of military fate, the Russian legal adviser Martens came up with a formula that would cover them, until some more permanent solution could be devised:

It has not... been found possible at present to concert regulations covering all the circumstances which arise in practice.

On the other hand, the high contracting Parties clearly do not intend that unforeseen cases should, in the absence of a written undertaking, be left to the arbitrary judgment of military commanders.

Until a more complete code of the laws of war has been issued, the high contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants of the belligerents remain under the protection of the rule of the principles of the law of nations, as they result from the usages established by civilized peoples, from the laws of humanity, and the dictates of the public conscience.

(Scott 1920: 208; See Best 1999: 627; Nabulsi 1999: 161; Meron 2000: 216)

In the light of the incorporation of this clause, the British delegate withdrew his proposal to include a statement recognizing the 'right which belongs to the population of an invaded country to patriotically oppose the most energetic resistance to the invaders by every legitimate means' (Scott 1920: 54–5). This British amendment had already been energetically resisted by the German delegate.

It has been claimed latterly that 'the clause has become one of the *legal myths* of the international community' (Cassese 2000: 188). What does this signify? Cassese's argument, importantly, stresses that the widespread view that the clause established new sources of international law by appeal 'to the laws of humanity and the dictates of the public conscience' is largely without foundation. It was simply an 'expedient' way out of a 'diplomatic deadlock' between the small powers, led by Belgium, and the major powers (Cassese 2000: 193). Systematically, Cassese rejects the various grandiose interpretations of the wording, and of the possible intentions that lay beneath them.

And yet Cassese reaches some striking conclusions, of relevance to the wider concerns of this chapter. They warrant quotation at length:

It cannot be gainsaid that over the years the clause has had a great resonance in international relations. Clearly, in spite of its ambiguous wording and its undefinable purport, it has responded to a deeply felt and widespread demand in the international community: that the requirements of humanity and the pressure of public opinion be duly taken into account when regulating armed conflict. If the clause had not struck a chord with the sentiments prevailing in the world community, one could not explain why it has been evoked or relied upon so often, both by international lawmakers, by national and international courts and by diplomats.

(Cassese 2000: 212)

This is a powerful analysis. It certainly, at the least, makes the case for public opinion being allowed to blow through the corridors of diplomatic power. But it says more than this. At the heart of its conclusion is the bold idea that what is acceptable within the confines of international society must, eventually, be answerable in a wider court of opinion, that of the world community at large. It is in the sentiments of this world society, its concerns with humanity, and its embodiment of the public conscience that the sources of international legitimacy are ultimately to be found.

There is no need to establish that this was the goal or intent of any of the key players at the time, as this is not the point. ‘What ultimately matters,’ Cassese reminds us, ‘is the overall effect that a legal constraint may produce, regardless of the intentions of its author or proponent.’ For the long term, what matters ‘is not so much *how* these advances are made,’ only that they ‘*be made*’ (Cassese 2000: 216). Viewed in these terms, the legacy of The Hague conferences is perhaps more substantial than conventional historiography has been prepared to recognize.

#### INTERNATIONAL LEGITIMACY AND THE PUBLIC CONSCIENCE

As was noted at the outset, The Hague meetings were dominated by the concerns of the society of states. While attempting to mitigate the sufferings caused by warfare, the conferences were sufficiently pragmatic, in the words of one record of 20 June 1899, to suggest that ‘we must not be so preoccupied with the demands of humanity that we are oblivious of the necessities of warfare’ (Scott 1920: 32). That said, neither were the conferences blind to the requirements of the public conscience. In his closing address to the First

Hague meeting, the President drew attention to the need for the conference to conciliate two great principles. These he described as the ‘principles of the Sovereignty of States’, on the one hand, and ‘the principle of a just international solidarity’, on the other (Scott 1920: 255).

It is difficult to pin down the historical significance of The Hague conferences, and it is common enough for historians to stress their irrelevance, especially in light of our hindsight knowledge about the events to follow. The point of this chapter is not to make out that the conferences were more important than they appeared, as the many strictures of the historians who have written on the subject paint too remarkably dismal a picture for them to be readily dismissed. The origins of the meetings give pause for doubt as to whether any real possibilities for radical innovation existed, just as the modest achievements on specific policy issues—not least the total failure on the much-vaunted subject of disarmament—demand due weight in any historical assessment.

That said, there was another dimension to The Hague, and it seems best to describe it as the injection into international society of a normative bent in favour of prioritizing the interests of humanity, as well as of seeking endorsement for international society’s actions from a broader constituency. This scarcely amounted to a revolution enthroning public opinion. Nonetheless, as in other respects, The Hague was to be more significant for what it potentially symbolized for the future, than for the specific meaning of its enactments in the short term. In this regard, the Martens Clause serves well as a microcosm of the conferences as a whole: if we scrutinize it closely, it was a modest and largely political act, but its resonance was eventually to surpass the limitations of the immediate intentions behind it. Much the same might be said of the conferences as a whole. Whatever the machinations, and the lack of sincerity, surrounding its appeal to the public conscience, this was to prove a spirit that could not so easily be returned to its jar.

The general language of the official proceedings, and of its various preambles and agreed statements, reflects the tendency at The Hague to adopt ‘a highly abstract approach to ethics’. According to this assessment, The Hague participants started from broad statements of principle, not ‘as philosophical assumptions’, but as ‘statements of obvious fact’ (Jones 1991: 56–7). This style of language, it is claimed, was later to be eschewed by the framers of the League Covenant. We can now explore this proposition by investigating two principles that were to emerge in the context of the Versailles settlement, one relating to racial equality, and the other to social justice. As we shall see, international society’s willingness to accede to these principles was to be quite different in the respective cases. Nonetheless, both were to leave a significant normative residue upon the accepted principles of international society.

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## Versailles and Racial Equality, 1919

It is generally accepted that, since 1945, ‘international society has now branded as illegitimate all doctrines to justify’ racial discrimination (Vincent 1984: 253). Notably, however, the first overt diplomatic effort to persuade international society to adopt racial equality as a normative principle occurred, not in 1945, but in 1919. This attempt, to insert an article or clause on racial equality into the new League Covenant, displays both striking parallels, and interesting contrasts, with the post-1815 efforts to abolish the slave trade. In both cases, there was a widespread popular agitation surrounding the international diplomatic proceedings. The 1919 case, as in 1815, demonstrates the engagement by international society with this world-society agenda, and thus offers another rich example of the interaction between the two. In both instances, the diplomatic running was to be made by one country in particular, by Britain in 1815 and by Japan in 1919. Indeed, Japanese press commentary at the time seized on this parallel, and emphasized the continuity between the two initiatives. *Asahi* advanced the following analysis:

Now the question of racial discrimination occupied today precisely the position which that of slavery did then . . . Japan being the leading colored Power, it falls to her to go forward to fight for the cause of two-thirds of the population of the world. . . . Japan must endeavour to make the Peace Conference leave behind a glorious record of putting an end to an inhuman and anti-civilization practice as did the Vienna conference a hundred years ago.

(Lauren 1988: 87)

What this comparison suggests also is the potential parallel with regard to the degree of state self-interest that attached to the promotion of a seemingly humanitarian principle. Is the Japanese initiative to be understood as disinterested, or is it ‘tainted’ by other state policy objectives? Once more we have a case that is problematic in the extent to which general principles of this kind could be promoted effectively within international society by individual state action.

On the other side, what sets the two episodes clearly apart is that, although after 1815 there were to be major practical obstacles to securing international

implementation of the abolition of the trade, there was little public dissent from the validity of the *principle*. In contrast, the evident outcome of Japanese initiatives in 1919 was the outright failure to secure adoption of a principle of racial equality. As Vincent (1984: 251–2) observes, racial equality was to ‘become a principle of international society’ in 1945, enshrined in the Charter of the United Nations, whereas it received ‘short shrift’ in the League Covenant. In turn, these differing outcomes pose important questions about the decisiveness of degrees of national power, inasmuch as Britain in 1815 was able to exercise much greater leverage than could Japan in 1919. Alternatively, this may be a misreading. As the most thorough study to date has suggested, perhaps the Japanese were not in any case trying to establish such a principle. ‘It will be shown that the principle of racial equality, as we conceive of it today in the universalist sense,’ writes Shimazu (1998: 4), ‘was not even the issue at stake during the racial equality negotiations.’ So what accounts for these differing outcomes?

Either way, the discussion of racial equality at Versailles presents the opportunity for an interesting case study of international society’s encounter with a norm emanating from world society. In all other instances reviewed in this book, international society subscribed to the norm in question. In this case, the norm was rejected, at least in the medium term. This outcome allows us to consider the lessons to be drawn from a ‘negative’ result, as a revealing point of contrast.

## HISTORICAL BACKGROUND

The enactment of this particular episode took place against a very dynamic and complex background. Above all, it came in response both to the pressures, and the opportunities, created by this most unusual of wars. It developed also in the context of other principles and demands that were to be powerfully expressed in the course of the settlement. The great cry for national self-determination implicitly fostered an egalitarian sentiment, as a right enjoyed equally by all peoples, however much such hopes were to be dashed in practice. But if the demand for racial equality was partly driven by this general surge of egalitarianism, it had to co-exist alongside the clearly hierarchical views of peoples then concurrently expressed in the doctrines of trusteeship, as implemented through the League Mandates system (Bain 2003: ch. 4). Racial equality had to make its way in a world in which the new egalitarianism jostled for space within the confines of a highly stratified and developmental view of peoples and races (Lauren 1978).

For all that, the aftermath of war did present an opportunity to air the issue, precisely because it represented a shift in the psychological balance of power. Japanese success in its war against Russia, however ambiguously, betokened the end of European military dominance, just as the Great War punctured the self-styled European claims to embody the pinnacle of civilization (Vincent 1984: 240–1). As it turned out, the full political implications of such shifts were to work their way through much more slowly, and the racial underpinnings of late nineteenth century social Darwinism were not to be so readily dislodged. As the Japanese proposals were to discover, 1919 no more represented the dawn of racial equality than it did the end of the age of European empire. Typically, Britain's foreign secretary, Arthur Balfour, could be persuaded that 'all men of a particular nation were created equal', but he dismissed as preposterous that 'a man in central Africa was created equal to a European' (Lauren 1988: 84).

Japan, as we shall see, considered itself to be the loser twice over as a result of these prevailing beliefs. On the one hand, it felt that prejudice against all non-white peoples lay at the bottom of the failure to accord Japan the international status that was its due. On the other, the discrimination made its impact, not on the corporate persona of the state, but upon the lives of individual Japanese citizens. The latter were the victims of restrictions on immigration, as well as of racially demarcated property rights, especially in California, Canada, and Australia. It is exactly the dual nature of the affront—to Japan as state, and to Japanese as people—that raises important questions about the underlying objectives of Japanese diplomacy, and for our understanding of the substance of the agenda pushed by it. This has implications also for our understanding of the origins of racial equality as a norm.

It is commonplace to point to the seeming disjuncture between Japanese military success (in 1894–5, 1904–5, and again in 1918), and the relative paucity of the diplomatic dividends flowing from it. Japan had apparently passed the major tests of 'civilization' imposed by European international society, and yet considered itself not to have been accorded full recognition of its achievements. This complaint was only partially valid. Japan had been granted five delegates to the Paris peace conference, the same as in the case of the other Great Powers. It was to become also a permanent member of the League Council. However, when diplomatic push had come to shove in the determination of the peace settlement, Japan found itself rapidly sidelined from the Council of Four (Macmillan 2001: 315–16). Paradoxically, its racial equality initiative may have contributed further to that sidelining (Akami 2002: 22). The suspicion felt in Japan, as in the case of its citizens, was that it was being treated as 'second-class' on racial grounds.

Accordingly, from the outset, the Japanese plenipotentiaries had been instructed to pursue the objective of finding some instrument, within the context of the League of Nations, to address this concern. The terms of these instructions are highly revealing:

The League of Nations is one of the most important problems and our Government support its ultimate objective. In view of the present situation, however, where racial prejudice among nations has not been eliminated at all, it is feared that the methods employed to achieve the objective of the League might bring grave disadvantage to our Empire...

Therefore, if a situation arises where some concrete proposal on this matter appears likely to be adopted, you will strive as far as possible to devise some appropriate safeguards in order to prevent from arising the disadvantages which our country may suffer under the racial prejudice mentioned above.

(Kajima 1980, iii: 349–50)

The Japanese delegates speedily began to prepare the ground for such an undertaking by making exploratory soundings with the Americans and British. Having failed to arrange an interview with President Wilson's key adviser, Colonel House, who was ill, the two Japanese delegates Makino and Chinda instead met Secretary of State, Robert Lansing, on 26 January 1919. Lansing, we are told, 'responded very approvingly', but unfortunately 'said nothing to the point' (Kajima 1980, iii: 395). There followed two important meetings with House on 2 and 4 February. Makino and Chinda showed House an initial draft text that read as follows:

The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree that concerning the treatment and rights to be accorded to aliens in their territories, they will not discriminate, either in law or in fact, against any person or persons on account of his or their race or nationality.

(Kajima 1980, iii: 396)

House dismissed the draft as unacceptable, at which point the Japanese delegates produced a modified version. According to its terms, the parties undertook the lesser obligation with regard to the treatment of aliens, to 'accord them, as far as it lies in their legitimate powers, equal treatment and rights...' (Kajima 1980, iii: 396). House found this sufficiently acceptable that he pledged the President's support, and suggested, if the Japanese thought fit, that it 'might be presented to the Commission as the proposal of the President' (Kajima 1980, iii: 396). Wilson then, on this account, amended one phrase, but otherwise endorsed the text (Kajima 1980, iii: 397). On the face of it, the American response had been 'unexpectedly encouraging' (Shimazu 1998: 18). However, David Hurst Miller, Wilson's key legal adviser on the drafting of the

Covenant, had already raised the fairly fundamental objection that 'any draft which had a real effect would, of course, be impossible' (Miller 1928, ii: 184).

Encouraged by the American response, the Japanese were perhaps led into a false sense of security with regard to the likely attitude of their British 'allies' (Shimazu 1998: 18). However, it soon became clear that Britain and its Dominions presented much rougher waters for the proposal, and soundings taken with Robert Cecil evoked very discouraging responses. It must already, by this stage, have been relatively apparent that the initiative was unlikely to succeed, at least in any of the versions preferred by the Japanese government. Nonetheless, the decision was taken to persist, and to introduce to the League Commission a substantial addition to a draft Article 21, which already discussed religious equality. Baron Makino, at the Commission meeting of 13 February, introduced a clause, embodying a yet further modification from that seemingly agreed with House and Wilson:

The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord, as soon as possible, to all alien nationals of States members of the League, equal and just treatment in every respect, making no distinction, either in law or fact, on account of their race or nationality.

(Miller 1928, ii: 324; Kajima 1980, iii: 398; Zimmern 1936: 259)

We will examine further below the substantive grounds on which the proposal was made. Chairing the session, Lord Cecil confided that the issue 'had raised extremely serious problems within the British Empire', and urged the Commission to 'postpone its examination'. Others concurred, and it was agreed to drop the proposed Article 21 from the draft of the Covenant (Miller 1928, ii: 325). It has been observed of Makino's speech to the Commission on this occasion that 'it was a moving and liberal statement, and it made no difference' (Macmillan 2001: 327).

Matters might have been left to lie there, but again Japanese diplomacy persevered. The delegation was instructed by Tokyo on 27 February to persist in pressing the matter, as otherwise 'it would affect the future interests of the Empire' (Shimazu 1998: 22). There followed a new round of shuttle diplomacy, as a compromise formula was sought that might satisfy the major protagonists. Both House and Smuts played major roles as go-betweens in these discussions during March. Wilson had, in the meantime, returned to the United States. Just as he prepared to return once more for Europe, the Japanese ambassador delivered a letter to the State Department, to be given to the President before his departure. The letter conveyed the Japanese conviction on this issue, but also contained an implicit warning for Wilson's great project:



In view of the fundamental spirit of the League of Nations, the Japanese Government regards as of first importance the establishment of the principle that the difference of race should in no case constitute a basis for discriminating treatment under the law of any country. Should this great principle fail of general recognition the Japanese Government do not see how a perpetual friction and discontent among nations and races could possibly be eliminated. If such be the case, they are greatly concerned that the smooth functioning of the League of Nations itself will be seriously hampered.

(Baker 1923: 235–6)

In the course of March, the most vocal opposition came from Prime Minister Billy Hughes of Australia. It was recorded in one diary, on 16 March, that Hughes ‘morning, noon, and night bellows at poor Lloyd George that if race equality is recognized in the preamble or any of the articles of the covenant, he and his people will leave the conference bag and baggage’ (Tillman 1961: 302). This was all of a piece with the remainder of his performance on the issue. In a decisive meeting on 25 March, the Canadian Prime Minister, Sir Robert Borden, came close to brokering a compromise. The crucial, and much diluted, wording was now to be reduced to the clause ‘recognizing the equality among the States and the principle of fair treatment to their nationals’. A number of the gathered Prime Ministers were prepared to go along with this suggestion, but it was Hughes who adamantly refused, and promptly walked out of the meeting (Kajima 1980, iii: 405). The prospects for any consensual adoption of the Japanese proposal had all but dissipated by this stage.

Surprisingly, despite these further setbacks, the Japanese diplomats once more persisted. The League Commission again convened on 11 April, and Makino, with a keen sense of what had already transpired, addressed it with a further proposal. No attempt was to be made to urge the insertion of a substantive Article. Instead, the Japanese delegation now sought only an additional clause in the Preamble. Such a clause might be thought hortatory, rather than imposing a specific obligation to act, and thus could be regarded as the lesser injunction. The words to be incorporated into the clause were ‘by the endorsement of the principle of equality of nations and just treatment of their nationals’ (Miller 1928, ii: 389; Kajima 1980, iii: 411; Zimmern 1936: 260; Lauren 1988: 90). Crucially, the word ‘race’ did not appear in this new draft.

There then ensued the melodramatic dénouement of the entire episode. Cecil spoke against the proposal, again voicing his concern that the Commission could not deal with the issue ‘without encroaching upon the sovereignty of States members’ (Miller 1928, ii: 389). Even more pragmatically, he later added, ‘the Covenant should be silent on these questions of right’, since ‘silence would avoid much discussion’ (Miller 1928, ii: 392). A number of other representatives, however, spoke up strongly for the inclusion of the clause, so much

so that Miller recorded that it 'seemed as if they were supported by the feelings of almost every one present' (Miller 1928, ii: 461). Decisively, Wilson spoke against, seemingly on the two grounds: first, he implied that the equality of nations was already understood, in any case, to be a fundamental principle of the League, and hence needed no restating; secondly, and more to the point, he worried that 'the greatest difficulty lay in controversies which would be bound to take place outside the Commission' (Miller 1928, ii: 391). His tone was above all one of pragmatism. His goal, he claimed, was to 'quiet discussion that raises national differences and racial prejudices', and to this end, 'would wish them . . . to be forced as much as possible to the background' (Miller 1928, ii: 462). It was a matter of politics, not of principle. 'It is a question altogether of the wisest thing to do', he volunteered, 'not a question of our sentiments towards each other or of our position with regard to the abstract statement of the equality of nations' (Miller 1928, ii: 463).

Baron Makino then pressed the matter to a formal vote, and the motion found a majority of 11 in favour out of the 17 present on the Commission. It had been supported by two delegates each from France, Italy, and Japan, and by one each from Greece, China, Serbia, Portugal, and Czechoslovakia (Kajima 1980, iii: 414). Momentously, Wilson, from the chair, declared the motion lost on the ground that it had not been unanimous. The procedural precedents, on which this judgement rested, were far from clear.

Diplomatically, Japan's game was now irretrievably lost. There was little that Japan could do, short of making good on earlier veiled threats not to join the League (Nish 1972: 270). This Japan did not do, not least because membership of the League Council offered some of the status that Japanese diplomacy so ardently sought. However, instead of letting the matter drop altogether, at the final Plenary session on 28 April, Makino re-entered the fray with yet another statement. Although the time for re-drafting the Covenant was over, Makino urged that the principle that had originally been set out on 14 February be henceforward respected nonetheless. Since the formal declaration was lost, there was no further need to compromise on the essential principle. Makino accordingly re-read into the minutes his original substantive article, disallowing any discrimination on grounds of race or nationality (Miller 1928, ii: 703; Kajima 1980, iii: 417). He concluded on a highly emotive note:

In closing, I feel it my duty to declare clearly on this occasion that the Japanese Government and people feel poignant regret at the failure of the Commission to approve of their just demand for laying down a principle aiming at the adjustment of this long-standing grievance, a demand that is based upon a deep-rooted national conviction.

(Miller 1928, ii: 704; Kajima 1980, iii: 418; Zimmern 1936: 263)

And so ended this diplomatic encounter. Who was responsible for the particular outcome? On the face of it, and by common consent, the die-hard resistance came from within the group of British Dominions, and from Hughes specifically. As is generally noted, the Americans had not appeared ill-disposed at the outset, as the initial interviews with House, and reported views of Wilson, had indicated. Equally, while Cecil had come out openly against the various Japanese proposals in the Commission, first-hand reports insist that he was uncomfortable about doing so, and acted in this way only because his own hands were tied.

There can be no doubt that the British 'white' Dominions made the bulk of the running against the proposal. Nonetheless, there is some reason to be sceptical about the degree of American support for the Japanese initiative. It seems certain that House changed his mind, and came round to thinking the proposal 'neither possible nor desirable' (Shimazu 1998: 24). Wilson's own personal stance remained far from clear, as is evidenced by his ready abandonment of any commitment to it as soon as it encountered serious opposition, even becoming willing to jettison his religious freedom article to this end (Shimazu 1998: 21). It must be remembered also that he was aiming for larger prizes. It was never very likely that he would risk the loss of his precious treaty and Covenant in the US Senate by including within it any rhetoric known to antagonize important Senators on the West coast. Support for the League counted for much more than support for this principle (Shimazu 1998: 157). He admitted as much in his statement to the Commission, when he expressed his preference to approach the 'very impressive' statement by Makino 'from the point of view of what it is wisest to do in connection with the discussion which will attend the institution of this great League' (Miller 1928, ii: 31). In short, there was no need for the US to make manifest its own opposition, as long as it could be hidden behind that of Britain's empire brigade. House candidly let this particular cat out of the bag. 'It has taken considerable finesse to lift the load from our shoulders and place it upon the British', he boasted, 'but happily, it has been done' (Macmillan 2001: 328).

The use by Wilson of the unanimity rule to quash the proposal was of a piece with this, as only the affirmative votes were recorded. This 'allowed the United States to oppose the Japanese proposal without openly declaring its opposition' (Shimazu 1998: 31). All this is consonant with what House had told Makino in late March. In his diary entry for that day, he recalled telling Makino frankly that 'we would agree to the pallid formula they desired', but only if 'Hughes promised not to make trouble' (Tillman 1961: 303). Since the latter was inconceivable, the former assurance must be seen to be wholly empty.

## THE DEBATE ABOUT RACIAL EQUALITY

In the limited number of accounts about this episode, there is considerable agreement about the detailed outline of these events. What remains unclear, and encourages different interpretations, is the precise nature of the motivations of the protagonists. What was driving them to act as they did? Once again, as in the previous two cases, questions revolve around degrees of principle, versus self-interest, on the part of the key players. For our purposes, the central issue is the motives of Japanese diplomacy. On this score, two interconnected sets of discussions require our attention. The first concerns the domestic/foreign policy interface in Japanese policy. Crudely expressed, was Japanese policy compelled to pursue a set of objectives by domestic political pressure, or was it pursuing autonomous 'state' purposes? Secondly, to the extent that Japanese initiatives might be considered to have been less principled than they appeared, what then were the interests that were at stake? The contours of this debate are not at all set out systematically in the literature, but they do need to be addressed, as they have a direct bearing on the concerns of the remainder of this chapter. Certain answers to these questions issue in a less meaningful role for a world-society perspective; others, much more so.

On the first of these, there will be more to be said below. The following sketch is intended merely to establish the relevant considerations. The point can be made generally, and then in two more specific contexts. Generally, Nish characterizes the pursuit of racial equality by Japan as a 'forlorn hope', sense of which can be made only by understanding the exposed position of the government against a backdrop of public expectation:

Yet the government was under considerable domestic pressure from the press, the opposition parties and a mushroom growth of new societies which had arisen in the idealistic atmosphere which followed the fourteen points. The hold of the government was a precarious one and it decided to include this issue in the mandate rather against its better judgment.

(Nish 1972: 270–1)

The final phrase is telling. If accepted, we should understand the Japanese mission as an unwilling one, reluctantly undertaken, and without expectation of success. It was driven above all by Japanese civil society. What we have just described above is then a study in the diplomacy of gesture and symbolism. The reasons for it must have been purely instrumental, and are to be discovered elsewhere.

Such a general interpretation finds support in two specific contexts. On 12 February, and immediately preceding the Commission meeting held two days later, Chinda conveyed to House the Japanese intention to table a

more radical resolution than the one that had already been under discussion between them. The reasoning, on this report, was that 'although it would be rejected, [it] would serve to satisfy Japanese public opinion' (Tillman 1961: 301–2). Secondly, and similarly, at the end of March, Japan responded to initiatives to broker a compromise to the diplomatic stalemate by burying the racial equality issue in a more general 'economic convention' that would prohibit discrimination. Makino and Chinda met again with Smuts to communicate the Japanese reaction. '[I]n view of the legitimacy and moderate nature of their proposals and of the fact that public opinion in Japan was becoming more and more agitated', they reported, 'they had come to the conclusion that it was absolutely impossible to find a method of meeting the demands of public opinion other than by incorporating Japan's proposal in the Covenant of the League' (Kajima 1980, iii: 408). This does not, of course, necessarily suggest that Japanese diplomacy was being disingenuous, but it was certainly being instrumental. Just as the Americans may have hidden their real position behind that of the British empire, Japanese diplomacy may have hidden its intentions and objectives behind that of domestic opinion. Governments often appeal to their lack of domestic freedom of manoeuvre in order to gain diplomatic purchase in a negotiation.

The other implicit debate running through the literature, if there was indeed an ulterior motive driving the initiative, is what was its nature? Three main arguments present themselves, overlapping with some of the points already considered. The first is the suggestion that the main objective of the Japanese government in presenting its various clauses was to secure the equality of treatment of the Japanese state in diplomatic intercourse, rather than any equality of treatment as such for its citizens as individuals, although it has been convincingly argued that for the Japanese foreign ministry, the latter was seen through the effect it had on the former (Shimazu 1998: 79). Secondly, and more specifically, there is the suggestion that what was constraining the Japanese government was domestic opposition to entry into the League of Nations, and the racial equality gambit needs to be understood in this context. Thirdly, the question arises as to whether or not the Japanese government had yet other ulterior motives in raising the issue of racial equality, namely to secure its primary objectives in the territorial settlement in China and the Pacific. To this end, the equality clauses have been thought to be merely a bargaining chip, and one that could be sacrificed to raise the stakes on those matters of greater priority. This latter question is engaged more directly in the literature than is the former.

The first argument lies at the heart of Shimazu's thesis. She insists that 'the racial equality proposal was motivated by Japan's insecurity as a non-white great power and its desire to secure its great power status in the future

international organisation' (Shimazu 1998: 7–8). That the Japanese government was intent upon raising its diplomatic profile, and having its claim to be respected as a major power recognized, is not in any doubt. With regard to the Paris negotiations, we are told in one such typical account, 'Japanese leaders now determined that their recent military victories would never be ignored or pushed aside' (Lauren 1988: 80). It is one thing to make such a general claim, as many do. It is quite another to suggest a direct linkage between this ambition and the pursuit of the racial equality clause. Nonetheless, some important contemporary accounts do precisely that. This emerges most sharply in Baker's record of the negotiations:

Japan had two purposes at Paris. First, a more complete recognition of her status as a great Power, equal to any other... This desire was also expressed in her demand that the Covenant of the League of Nations provide for 'the equality of the nations and the just treatment of their nationals'.

(Baker 1923: 225)

As we shall see, the validity of any such interpretation hinges crucially on the exact wording of the Japanese proposals.

The second interpretation emphasizes instead, not Japan's general requirement for great power recognition, but rather the government's specific problems in pursuing a pro-Western policy in the face of substantial domestic opposition. Acceptance of the League was seen to be symptomatic of a policy of accommodation with the Anglo-American naval powers, and was resisted by those who had alternative pan-Asian aspirations. In any event, some of the domestic mobilization around the racial equality issue appears to have been driven tactically as a means of applying pressure on the government's League policy. Acceptance of the clause was, to this extent, a tactical device to make 'the League more palatable' (Shimazu 1998: 10). The clause was needed for its 'symbolic value of standing up to the West', and displaying that support for the League policy was not 'unconditional' (Shimazu 1998: 51, 39).

On the third point, the claim that Japan used racial equality as a bargaining chip has been explicitly raised, and just as vigorously refuted (Akami 2002: 24). 'Was Japan's insistence on the racial equality clause merely a bargaining counter...?', asked one of the foremost students of Japanese policy (Nish 1972: 270–1). Some have answered in the affirmative, including the then US Secretary of State, Robert Lansing. Lansing reflected a general state department position that was sympathetic to China, and the claims about Japan must be understood in this light. In his memoir of the Paris conference, Lansing maintains not only that the clause was a bargaining counter, but also that it was in fact part of a concrete deal, whereby Japan would realize its territorial demands in Shantung:

This decision, which was favourable to the Japanese claims, was the result of a confidential arrangement with the Japanese delegates by which, in the event of their claim being granted, they withdrew their threat to decline to sign the Treaty of Peace, agreed not to insist on a proposed amendment to the Covenant declaring for racial equality, and orally promised to restore to China in the near future certain rights of sovereignty over the territory.

(Lansing 1921: 243)

Lansing certainly was pursuing his own agenda in writing his book, but others maintain also that this linkage was present, even if not in such a formalized way. Others are dismissive, and equally adamant that the chronology of the two sets of negotiations destroys the credibility of any such overt linkage (Shimazu 1998: 137).

A slightly different interpretation is that, even if not originally linked in Japanese intentions, the two issues nonetheless interacted in terms of the eventual consequences. A 'rebuff' on racial equality, Baker was to recall, 'only served to harden the Japanese determination in forcing their territorial claims'. He added that 'there is little doubt that the claims were played off against each other' (Baker 1923: 239). In yet another variant, because their proposal had been rejected, 'the Japanese threw principle to the winds and destroyed much of their subsequent credibility by succumbing to the desire for territorial acquisition' (Lauren 1988: 97). This implies that the Japanese land grab was a belated reaction to the failure on racial equality, but this suggestion scarcely squares with the fact that territorial satisfaction in China and the Pacific islands was made part of the instructions for the Japanese plenipotentiaries from the very outset.

There is a solid body of historical interpretation which finds itself somewhere in the middle of these sundry accounts. It is subtly distinct from the previous versions. It was advanced first by Tillman. 'This demand seems to have been a sincere objective in itself', he observed of the racial equality clause, 'secondary to but not merely a bargaining lever for Japan's imperialist aspirations in China and the Pacific' (Tillman 1961: 300–1). It was further elaborated a decade later by Nish, in answering his own question, posed above:

Certainly, when the moment of choice came at the end of April, the Japanese delegates held out for their demands over Kiaochow rather than the more tangible principle of racial equality. They accepted a defeat in order to ensure victory on the other score... Yet the racial issue was much more than a bargaining-counter to be surrendered gladly: it was a genuine conviction, honestly held... In short, the racial equality issue was always held to be a secondary demand rather than a primary one...

(Nish 1972: 270–1)

If we are to accept this version, its implications are clear. The attainment of racial equality was a sincere and genuine objective, sought as an end in itself: it just happened to be of lesser priority than the territorial goals that were also pursued. What then does this historical account, and the controversies within it, mean for our analysis of those events? At this point, the discussion needs to engage directly with the world-society dimensions of the racial equality dispute.

### RACIAL EQUALITY AS WORLD SOCIETY ACTION

To begin to analyse the Japanese proposal for a racial equality clause as some kind of world society action, we need to place the episode in its wider context. As already noted, this quest formed part of a wider movement for the recognition of cognate equalities, stimulated in the intellectual and political aftermath of the war. Most notably, the mood of the time was captured in the demand for an equal right for national self-determination, and this had been encouraged by Woodrow Wilson's various pronouncements on this theme.

For our purpose, what needs to be explored is the extent to which this agenda was driven by public sentiments, and carried forward through various social movements. It is immediately evident that substantial political pressure operated largely outside the inter-state realm, even if this remained its proximate target for remedial action. Any number of private groups and societies sent representatives to Paris to raise their particular concerns with the peacemakers, such that the negotiation ultimately involved a great confluence of 'individuals, pressure groups, political parties, states, empires, and races' (Lauren 1988: 76).

This general level of public engagement with the terms of the peace settlement was reflected in Japan on the particular issue of racial equality, and this too captured the mood created by Wilson's Fourteen Points:

It was President Wilson's fourteen points which sparked off agitation on this subject in Japan. Many societies sprang up to advocate that the conference at Paris should be used for the abolition of racial discrimination and that the creation of the League of Nations would provide the opportunity for declaring the equality of the yellow race. This was widely supported in the press in what became a campaign for racial equality.

(Nish 1972: 269).

As in 1815 over the slave trade, and in 1899 over disarmament, the clamour in 1919 over racial equality was a wide and public one. For example, one of the largest pressure groups, The League to Abolish Racial Discrimination,



held its first mass public meeting in Tokyo on 5 February 1919 (Shimazu 1998: 51). Even earlier, The League for People's Diplomacy had submitted a memorandum to the Japanese government on 6 December 1918, demanding abolition of racially prejudiced policies by the British and Americans (Shimazu 1998: 52). This domestic pressure was certainly recognized as such by Japanese policymakers, and was openly acknowledged by Baron Makino in his statement before the League Commission on 13 February 1919. The new mood had 'extended to remote corners of the globe', and it was his belief that 'this impulse, once set in motion as part of the universal movement with renewed strength, cannot be stifled' (Miller 1928, ii: 324). As noted, this raises important questions about the extent of the autonomy of Japanese governmental action, as opposed to its being driven by domestic civil-society pressure.

It was not, however, merely a matter of the Japanese public agitating to put pressure upon its own government. Once more, as in 1815 and 1899, this formed part of a wide, and concerted, transnational set of activities. For instance, the League to Abolish Racial Discrimination cabled Georges Clemenceau on 5 February that 'the Japanese nation expects of the Peace Conference the final abolition of all racial discrimination and disqualification' (Shimazu 1998: 51). In the United States, the issue of race had been raised publicly by William Du Bois and his National Association for the Advancement of Colored People (NAACP). Du Bois and a colleague submitted a memorandum to President Wilson on 27 November 1918, containing a number of proposals for the treatment of Africa at the forthcoming peace conference (Keylor 1998: 224-7). More specifically, Du Bois was the moving force behind the organization of a Pan-African Congress to be held in Paris to accompany the peace conference. 'The participants immediately put themselves on record as being vitally interested in the deliberations of the Paris Peace Conference concerning race', we are told, 'especially with respect to the proposals for racial equality and self-determination' (Lauren 1988: 78). Some governments, and especially those of the USA and Britain, did their very best to obstruct the Congress by refusing to issue passports to prospective participants. From all this, it is clear that the issue came to be played out, not simply within the stately confines of the League Commission, but also in the wider public domain where various transnational actors sought to galvanize world public opinion, and thereby to influence the international peacemaking forum. In this respect, the episode shared many of the same features as had characterized the campaign against the slave trade in 1815, but arguably dwarfed that earlier episode in terms of the scale of those who were to become involved.

As we have already noted, Japanese public pressure was to be important at a number of decisive stages in the campaign. At the very least, it may have

exercised some effect in ensuring the diplomatic perseverance of the Japanese government, when it became clear that its demands were highly unlikely to be realized (Macmillan 2001: 327). The Japanese press continued throughout a robust campaign in support of the proposal (Lauren 1988: 80). Their target, although principally the Japanese government, included also prominent leaders of other national governments:

A mass meeting in Tokyo sponsored by twenty-seven different organizations was convened to place more pressure upon the peacemakers in Paris. Collectively the organizations created the Association for the Equality of Races and passed a resolution declaring that ... 'the Japanese nation should do its utmost to see that discriminating treatment based on racial difference, which has hitherto prevailed in international relations, be removed by the Peace Conference'. Leaders of the rally then cabled this text to their delegation, sending copies to Georges Clemenceau and Woodrow Wilson as well.

(Lauren 1988: 85)

Given this context, the question naturally arises whether, or to what extent, the Japanese government might then be seen as acting as the instrument of a wider world-society constituency in advancing this claim. In the face of the political realities at Paris, any such principle could make headway, and gain real purchase, only if accepted as a principle within international society, whatever its original source. We thus face a difficult analytical choice. Should Japanese action be understood as the pursuit of a national policy, developed either in response to ideological convictions or tangible national interests (or some combination of the two)? Alternatively, should it instead be conceived as acting as the representative of a wider constituency, whether consciously or not? There is certainly an implicit suggestion that we can consider the matter in the latter way. The inchoate groupings that assembled at Paris, or mounted their campaign at distance from home, needed someone who would 'speak for them and would champion the cause of racial equality', and they 'found such a champion in Japan' (Lauren 1988: 79). This does not deny that Japan may have had its own distinctive purpose in running with the agenda; it means only that Japan was serving also as the agent of a 'public' purpose, whatever its 'private' goals.

To pursue this matter further, we need to examine more closely the content of the arguments that were advanced by Japanese diplomatic spokespersons at the time. To what kind of principles did they make appeal? When they referred to public opinion, were they pointing to this as a political pressure that constrained their own freedom of action? Or were they appealing to it as a normative constituency which added substance to the case on behalf of the principle. In short, is there evidence that the racial equality clause can be

seen not simply as a political interaction, involving many public groups and transnational actors, but also as a normative position staked out in response to a perception of social obligations that had been newly created? Had world society, in fact, given rise to new claims on behalf of racial equality?

### RACIAL EQUALITY AS WORLD SOCIETY CLAIM

The first detailed Japanese statement in support of the principle of racial equality came in Baron Makino's accompanying speech to the League Commission on 13 February 1919. Three aspects of this require our close attention. The first was its emphasis upon the limits of what was being asked. The second was its substantive argument for the principle, derived from a retrospective view of important developments arising out of the recent war. The third was its substantive argument for the principle, this time arising out of a prospective assessment of the consequences of the newly adopted idea of collective security within the League.

The terms in which Makino introduced his draft article were notably moderate. He did not insist on instant, and universal, implementation of the principle. The tone of his statement emphasized instead the need for 'a practical point of view':

The clause enunciates the principle of equality, and leaves the working out of it in the hands of the responsible leaders of the States members of the League, who will not neglect the state of public opinion. This clause, in a way, may be regarded as an invitation to the Governments and peoples concerned to examine the question more closely and seriously, and to devise some acceptable means to meet a deadlock which at present confronts different peoples.

(Miller 1928, ii: 324)

This clearly reveals the intention that any adoption of the principle be regarded as the initiation of a process of negotiation, not its completion.

Support for the principle, Makino argued, could be drawn from the recent experience of war. One of its features, and to an unprecedented degree, was the way in which 'different races have fought together on the battlefield'. What issued from that, he continued, was that 'a common bond of sympathy and gratitude has been established to an extent never before experienced'. This 'common suffering and deliverance' issued logically, Makino insisted, in the 'equality among men' (Miller 1928, ii: 324-5). Racial interdependence in war had, to this extent, created a new social reality on the ground.

If anything, the most interesting and innovative aspect of Makino's testimony was to be found in his comments on the future League of Nations. This too, he urged, created a new social reality, the full normative implications of which needed to be teased out. Tactically, this may have been thought to put pressure on the American President, by showing how racial equality was integral to the very collective security that lay at the heart of his pet project for the League. Substantively, however, it amounted to a statement of a powerful normative case. Once in place, the League would create a new set of social obligations across borders, not just between state and state, but also between individual and individual. Makino's case deserves to be reproduced at length:

The future States members of the League, comprising all kinds of races, constitute a great family of nations... If one member's independence and political integrity is menaced by a third Power, a nation or nations suitably placed must be prepared to take up arms against the aggressor, and there are also cases of enforcing common obligation which would entail contribution of armed force. These are indeed serious obligations to which each State member... mutually pledges itself... This means that a citizen of one nation must be ready to share the military expenditure for the common cause and, if need be, defend other peoples by his own person. Seeing these new duties arising before him as the result of his country's entering the League, each national would like to feel and in fact demand that he should be placed on an equal footing with people he undertakes to defend even with his life.

(Miller 1928, ii: 324–5)

This is rich intellectual fare. What is so powerful about it is its perception that the League, and its collective security apparatus, would not simply entail new obligations for states. These obligations, by the way they would impact upon individual citizens, created new bonds directly between people. They would reinforce, not just an abstract sense of obligation between individuals, but a new social bond. It is precisely in this complex interplay of international and world society that something novel would be forged. Makino's words give us a profound insight into the nature of this innovation.

Subsequently, Makino was to revert to similar themes. He did so in introducing his draft clause to be inserted into the Preamble of the Covenant on 11 April 1919. On this occasion, Makino referred to the League 'as an attempt to regulate the conduct of nations and peoples towards one another according to a higher moral standard than has obtained in the past'. It has 'quickened the common feeling of different peoples scattered over the five continents' and, in so doing, has 'strengthened the sense of legitimate claims they consider as their due'. Once again, Makino alluded to the extent to which such notions of equality were essential to the very idea of the League, and certainly to its effective working—thereby implicitly warning opponents of the adverse

consequences for the League of any refusal to include the symbolic wording in the Preamble. Makino proceeded to make an eloquent plea for securing the future of the League in the hearts and minds of the people, not just in the policies of governments. This was an argument to which President Wilson could scarcely make any principled objection, but it led to possibly unpalatable conclusions in this particular case:

The enduring success of this undertaking will depend much more on the adherence to (and espousal of) the noble ideals, set forth in the Preamble, of the various peoples concerned than on the support or acts of respective Governments that may change from time to time. The peoples constituting the States Members must be the future trustees of this work, and their close harmony and mutual confidence are necessary for insuring such success . . . If this reasonable and just claim is now denied, it will, in the eyes of those peoples with reason to be keenly interested, have the significance of a reflection on their quality and status . . . It will not be easy for people to reconcile themselves to the idea of submitting to a call for heavy and serious obligations, perchance in defence of those at whose hands they are refused a just treatment.

(Miller 1928, ii: 388)

Here was a set of arguments that, once more, respectfully acknowledged the role of international society, and was intended to move it in a particular direction. It did so, however, by at least partly stepping outside it, and making appeal to a society of people, on which the successful operation of international society's institutions would ultimately depend.

At this point, it becomes necessary to return to an issue that has been already foreshadowed. This has to do with the categories among which the Japanese proposals asserted there to be equality. What is so striking about the entire episode is the slippage of language, from one diplomatic text to another, and within the confines of individual Japanese statements. As has been demonstrated in the historical background, what the Japanese government originally sought was a declaration in favour of racial equality. By the time of the revised text to be inserted in the Preamble, the reference to race had been eliminated altogether. So what exactly was the nature of the equality that was being asserted, and what is the significance of the changing language through which this came to be expressed? Was this a single demand, couched in varieties of diplomatic language? Or was it a shifting set of demands, each with quite different sets of political implications?

It is relatively straightforward to suggest that a principle of racial equality is ultimately derivable from a doctrine of human rights and of individual equality. All human beings enjoy equal rights, and this cannot be overridden by considerations of race, or of any other kind. To this extent, it is not especially problematic that the discussions of racial equality should periodically slip into

the language of human equality. Typically, in his statement before the League Commission on 13 February, Makino drew from the racial interdependence in the recent war the general conclusion that this demanded 'a principle at least of equality among men' (Miller 1928, ii: 325). What followed less clearly were the shifts that accompanied the decision to omit reference to race by the time of the discussions in April. On 11 April, Makino insisted that his amendment 'is simply to lay down a general principle as regards the relations between at least nationalities, just as it prescribes the rules of conduct to be observed between the Governments of the States Members' (Miller 1928, ii: 389). Here, a clear distinction is being made between the 'nationalities' and the 'States Members', but it is by no means certain how the principle of racial equality related to the equality of nationalities. In the search for a diplomatic compromise through March, we have been told, Japanese negotiators had already agreed the substitution of the word 'nation' for the word 'state'.

This all has echoes of our earlier discussion about the nature of Japanese objectives. If a key purpose of Japanese diplomacy was to accord equal status to the Japanese state in its conduct of international politics, it might be thought that a clause about nations or nationalities served the purpose just as well as one about race. This would certainly be so if what was at stake was 'pragmatic imperial interests', and particularly 'Japan's pride as an imperial power' (Akami 2002: 24). It would also have the advantage of dampening the diplomatic clamour that the usage of the word 'race' necessarily entailed. However, if the intention was principally to secure protection for Japanese residents in other countries, who suffered racial discrimination, then the precision of language was a matter of some moment.

If the change of language from race to nationality was a diplomatic fob to deflect opposition from it, it certainly had the desired effect. While the original Japanese draft Article 21 was defeated, the modified clause for insertion in the Preamble, although struck down by the Chairman's fiat, garnered a majority of eleven out of seventeen. Some delegates moved from their earlier positions, on grounds of the substantively different connotations of the new wording. The Greek representative, Venizelos, explicitly acknowledged that the issue now appeared in a 'new light', because advanced on 'another ground'. What was now being suggested was not 'the equality of races', but rather 'the equality of nations' (Miller 1928, ii: 390–1). This was not based on any misreading of the text, as plenipotentiary Chinda was at pains to point out in the same debate. He reiterated that Makino had 'not broached the question of race or immigration', but had instead 'asked for nothing more than the principle of equality of all nations' (Miller 1928, ii: 389). Was the material difference between the two that this would extend legal protection to those people who

could make a reasonable claim to belong to an identifiable nationality, but would exclude those who belonged residually to no more than a race?

In neither form was the principle acceded to, and we must conclude therefore that racial equality, in either its explicit or more subterranean forms, was not formally adopted as a principle of international society in 1919. In the words of Sir Robert Cecil, it was 'better that the Covenant should be silent on these questions of right' (Miller 1928, ii: 392). Elsewhere, British representatives had informed the Japanese delegates that they could not support the proposals because 'the racial question, by its nature, had nothing to do with the League of Nations' (Kajima 1980, iii: 397). It would have been interesting to see the grounds for this argument developed in detail, but we have to surmise that, in some fundamentalist sense, this amounted to an objection that world society was not to be allowed to dictate to its international counterpart, nor was it the business of international society to sort out all problems in the world-social domain. If so, the argument was patently disingenuous, and flew in the face of other measures then being introduced to protect religious, ethnic, and cultural minorities of various kinds. It is difficult to see on what general principle such matters were more properly the business of the League than was race. In the end, international society thought it politic to shy away from any adoption of the racial equality principle, and in no small part because it was fearful that to accept it would simply engender more political problems than it would solve. Paradoxically, international society was driven to consider the principle at all because of world-society pressures operating on and through the Japanese government, but equally was minded to reject it because of the inflammatory reaction from world society that it feared its adoption would provoke. World society provided the major catalyst for this normative encounter, just as it provided also the convenient pretext for international society to turn its back upon it.

#### INTERNATIONAL LEGITIMACY AND RACIAL EQUALITY

This chapter opened with some reflections on the subject by John Vincent. It can close on a similar note. Although acknowledging that international society had considered racial discrimination illegitimate since 1945, Vincent had gone on to ponder the wider question that lies at the heart of the present discussion. While not fully persuaded by the argument, he had reflected on the idea that the battle against racialism had been only partly won, 'but not in world society which has been rendered as a global caste-system'. If such an interpretation were to be accepted, it might imply that 'the phase of the

transition to racial equality in world society has hardly begun' (Vincent 1984: 253). His suggestion, then, was that racial equality has become more embedded in international, than in world, society. If this was indeed so, it might offer some extra insight into the seeming failure of 1919.

We do not need to engage with the specifics of this debate. The important point that it brings to our attention is the meaning of racial equality within a world-society framework. In posing the issue in this way, Vincent plainly suggested that there was an alternative social referent in terms of which the acceptance and advancement of a principle of racial equality had to be considered. It is interesting that he couched this in the language of world society.

In a word, the problem in 1919 was that world society was itself so divided over the issue of race that international society could appease the most vociferous proponents of racial equality only at the cost of alienating those other sectors that would have nothing to do with it. Although a greatly diluted version of it was sympathetically regarded by a number of state representatives (and indeed by a majority in the relevant Commission), the language of the various Japanese texts was nowhere included in the final versions of the League Covenant. We know that such inclusion was, by the end, fiercely resisted on a number of diplomatic fronts, and not least by the powerful representatives of the United States and Britain. We can then concur with the verdict that, in 1919, 'international society still lacked moral consensus on the importance of this principle as a universal value' (Shimazu 1998: 184). In part, however, this simply reflected the wider reality that such consensus was equally lacking within world society, even if it was within this social sphere that the greater incentive lay for pressing it as an issue. Various domestic opinions were hostile to racial equality, not least in Australia where Hughes suggested it was an idea that 'ninety-five out of a hundred Australian people would oppose' (Akami 2002: 23). The intellectual temper of the time, and not just among state representatives, remained saturated in notions of racial distinctiveness and hierarchy. To that extent, national leaders were themselves hiding behind known public attitudes within sectors of world society, and resisted acceptance because of their very real fears for the 'controversy' which they knew acceptance would bring in its wake.

For all that, international society had put down its first distinctive markers on this issue. That it had sipped of this poisoned chalice at all is in many ways remarkable, and largely unaccountable within the narrow logic of interstate relations. So what should be our assessment overall of this episode? To be sure, Japan can be seen to have had 'state' reasons for advancing the cause, and possibly also state reasons for advancing it no further than it did. It remains, nonetheless, puzzling that this parvenu among the great powers should have risked its social acceptance among its peers by pressing an issue that was bound



to antagonize the most powerful among them. At the same time, it must be noted, that in the short term the initiative failed. We must conclude with some reflections on why it occurred at all, and what was to be the significance in the longer term.

The comprehensive study by Shimazu (1998) presents a distinctive account that is convincing in its interpretation. Above all, she is insistent that what Japan was advancing should not be understood as a universal principle of racial equality. 'The fact that the aim of the proposal was so specifically geared towards securing Japan's own position', she contends, 'indicates that it could not have been intended to have the altruistic objective of seeking universal racial equality' (Shimazu 1998: 114). To this extent, she dissents from the implied interpretation in Vincent, inasmuch as the latter treats it as a 'universal' principle. This is supported elsewhere. Akami (2002: 25) firmly comes down on the side of Japanese 'state' interests. 'The right to claim equal treatment', she insists, 'belonged only to citizens of a powerful nation/empire'. The Japanese position was as 'paternalistic' as that of the Europeans and Americans, and sought 'equality' for those citizens alone who belonged to strong and advanced states. Otherwise, 'for the weak they wanted the old imperial code and annexation'. To this degree, Japanese colonial practice was as racist as that of the other empires.

As further evidence of the particular goals of the Japanese proposal, it has also been noted that the government's 'reluctance to be associated with the universal principle was revealed by its uneasiness with being associated with political movements such as the Pan African Congress'. It did not want to be seen as the 'champion' of the coloured races (Shimazu 1998: 114). Here, however, is another case in point where political effects can outstrip the intentions of their original authors. The symbolism of Japanese actions cast it in a special role, whatever the preferences of the Japanese government. Thus, writing in 1920 about the proclaimed mastery of the white races, Du Bois took comfort from the temporary 'halt in this program' that had been 'made by little Japan'. 'Today Japan', he wrote, 'is hammering on the door of justice' (Zuckerman 2004: 35–6). Whether or not Japan was to become such a champion was a choice not for Japan alone to make.

Japan was pressing a particular set of demands about its own status as a great power. To this extent, Japan's proposals were consonant with the broad tenour of the peace settlement, which eschewed 'abstract principles' for 'institutional arrangements', and was more 'political' than 'philosophical' (Jones 1991: 44). Interestingly, even if thus narrowly circumscribed, Japan can still be seen to be making an important contribution to the norms underlying conceptions of international legitimacy, namely about the 'rightful membership' of the great-power club itself. If, in the end, Japan was not so much

interested in establishing a norm of universal racial equality among peoples, it yet made a contribution towards a norm of universal equality of great powers, regardless of race. This was to be of momentous long-term significance to the development of the international system during the twentieth century and beyond, and was fundamental to its effective transition from a European international society to a genuinely global one. Shimazu seems to acknowledge this point, without appreciating its full significance. 'As far as the Japanese were concerned', she comments, 'racial equality was an important, and indeed indivisible, part of great power equality' (Shimazu 1998: 112–13). While Japan had specific interests in this norm, it remains nonetheless the kind of universal principle of international legitimacy on which the future international society was to come to depend. Paradoxically, if there was to be little advance in 1919 for racial equality as an international-society norm in the general sense, world society had nonetheless made some contribution to its becoming an element of future international legitimacy, in the more restricted sense of its application to the great powers. When admitting that the Japanese demand was a 'landmark' in that it 'challenged the existing universalist values upheld by the hegemonic great powers of the time' (Shimazu 1998: 188), she is acknowledging as much.

The claim that world society was contributory to the outcome in 1919 can also be made negatively. This is best done in the context of the relationship between state power and the adoption of international norms. It is fully accepted within this study that state power is an important ingredient in the successful articulation of specific norms as belonging to international society. However, state power is not the only such element. Thus it has been suggested that had President Wilson in 1919 endorsed racial equality, rather than self-determination, the former 'would certainly have been the most important principle to come out of the peace conference' (Shimazu 1998: 188). The suggestion is far-fetched, as even the powerful United States could not command such power over norms. There remained sufficient opposition elsewhere, both within international society and world society, to have stymied any such effort. To this extent, while it is true that 'Japan as a new great power simply did not have the same clout as the United States' (Shimazu 1998: 188), this is not sufficient on its own to explain the failure of the racial equality gambit in 1919. World society facilitated, and in some respects encouraged, the Japanese initiative, but it could just as equally have blocked any full endorsement of the principle, regardless of which state opted to act as its sponsor.

That it was Japan that took this initiative therefore demands a wider framework of explanation. That Japan might secure 'private' advantages by pursuing a public normative good is, to some degree, beside the point. It is the interaction between state, and non-state, agendas that was to be so important.

Equally so was the specific content of the arguments advanced in support of the principle. Their conscious appeal was not to some abstract commonality of mankind, but instead to a new social reality of individual citizens, created by the additional obligations which international society itself was thrusting upon them. These arguments were intellectually striking, precisely because they appealed to a world-society consciousness, and in so doing contributed further to its development. What they appealed to in particular was an awareness of the extent to which international society's institutions were becoming increasingly dependent on world-society endorsement and support. President Wilson understood this general point only too well, even if he turned his back on applying it in this specific case.

These were markers that fed into a developing consciousness of the issue. Whether this in itself would have been sufficient, in the longer term, to bring about international society's adoption of the principle of racial equality remains an open question. It was to be answered in another, and more brutal, way by the consequences of the pursuit of racial inequality to its utmost extreme from the 1930s and beyond. In response to the obscenities of Nazi racial exterminations, even the principal doubters of 1919, the United States and Britain, became its determined champions in 1945. Any remaining gulf between international and world society had by then been bridged in a very brief, but violent, generation.

## Versailles and Social Justice, 1919

Given the substantial volume of writing that there has been about the Versailles peace settlement, surprisingly little pays any attention to its provisions on the international regulation of labour conditions. And yet an entire Part XIII was devoted to these matters in the Versailles Treaty (and in the other treaties as well). On the face of it, this was a surprising addition to the settlement, and even appeared so to leading peacemakers at the time. Most strikingly, President Wilson queried in a conversation with Colonel House on 16 December 1918 whether or not something might be done at the peace conference to regulate hours of work; 'he said it was entirely irrelevant to a Peace Conference, but wondered if it could not be brought in' (Seymour 1928: 296–7). If it was so irrelevant, just why was it brought in, and who was instrumental in its inclusion? That international society should acknowledge its responsibility for social justice was a development of momentous long-term import. It has prompted the view that this was 'the premonitory sound of a trumpet outside the walled gates of national sovereignty', serving future notice that 'social justice was to be a matter of international concern' (Jones 1991: 35). What might this episode tell us about the impact of world society upon conceptions of international legitimacy?

Famously, Part XIII of the treaty was introduced by the general claim that the League was being set up to ensure universal peace, 'and such a peace can be established only if it is based upon social justice' (Carnegie Endowment 1924: 238). Accordingly, the peacemakers of 1919 were committing international society to a general norm of social justice. The contrast is often drawn between the successful inclusion of labour demands in the 1919 settlement, and the failure of previous attempts to make them subject to any international regime. Most notably, Robert Owen had submitted to the Congress of Aix-la-Chapelle in 1818 a memorial on social conditions, appealing for 'practical measures' to ensure that production was 'obtained at the least expense of manual labour and with the most comfort to the producers'. He proposed also that the Powers establish a commission to examine the situation, and especially to note his own social experiment at New Lanark (Claeys 1993: 260, 267). Admittedly, Owen's proposal was for a social revolution, not simply for international

labour legislation, but it was all but ignored by the Congress in 1818 (Périgord 1926: 53; Mahaim 1934: 3; Lloyd George 1938: 643). Why, then, should the demands in this regard have fared so much better in 1919? Why was it that 'for the first time in a treaty of peace, a long chapter was consecrated to Labor' (Périgord 1926: 18)?

This is the central puzzle that this chapter seeks to address. However, in addition to explaining why this programme came to be inserted into an international settlement, we need also to be aware of its longer-term significance. While the adoption of these measures by a gathering of international society was remarkable enough, it was to be doubly so with regard to one aspect of its substance. In setting up the International Labour Organization (ILO), the peace settlement provided for a permanent conference that was 'entirely novel' (Butler 1939: 8), namely one that incorporated the joint membership of international and world society: the ILO was to be an officially recognized meeting place that brought together the representatives of international society, directly with representatives of employers and labour. The momentous task set for the Labour Commission in its part of the peace settlement, was 'to prepare within and through the framework of existing Governments the means for co-ordinating the action of industrial democracy' (Temperley 1920, ii: 38).

As we shall see below, the composition and voting procedures of this body were to be without precedent, and of considerable symbolic importance. Equally so was its long-term impact. Unusually, the ILO enjoys institutional continuity dating back to 1919, and set the precedent for the much more intrusive international institutions that were to be established in the social and economic sphere after the Second World War. It was, in that sense, the harbinger of subsequent international action to promote the welfare state (Northedge 1988: 167–8). Lloyd George was later to laud it as 'one of the most amazing and gratifying miracles of the post-war period' (Lloyd George 1938: 670–1). Although not universal, the ILO nonetheless exercised widespread influence. One future Director of the International Labour Office saw its significance specifically in the extension of labour conditions to other parts of the world beyond Europe (Butler 1941: 13). It was to be notable also for including in its membership states that were not currently members of the League, such as Germany (from 1919–26), and the USA (after 1934).

## THE HISTORICAL BACKGROUND

Any attempt to make sense of the labour provisions adopted in 1919 needs to be placed in the context, both of pre-war developments, and also of the nature

and impact of the war itself. The history of *national* legislation to govern labour conditions only gets substantially under way during the nineteenth century, and in a handful of European countries. There was clearly a need for this to take hold in the individual states before there could be any realistic prospect of extending effective regulation on an international basis.

While the 1919 decisions developed out of earlier precedents, they also marked a qualitative threshold. The reality is that international action on labour questions had made relatively little headway before 1914 (Temperley 1920, ii: 35). This, it has been suggested, can be explained by the relative lack of international competition before the close of the nineteenth century. It was in the context of accelerating, and more intense, competition that the need for international regulation of labour conditions grew apace (Butler 1939: 4; Mahaim 1934: 14–15). One of its immediate precursors was the conference summoned in Berlin in 1890 by the German government which, in the common assessment, passed a few resolutions but was otherwise notable for having neither the capacity for preparing the ground in advance, nor for undertaking follow-up action in its aftermath. In that respect, the establishment in Basle in 1900 of the International Association for Labour Legislation was a considerable improvement. However, while receiving some government financial support, this remained a private nongovernmental initiative (ILO 1931: 22–3; Lloyd George 1938: 646–7; Morse 1969: 7; Temperley 1920, ii: 34–5). Otherwise, as we shall see below, the main pre-war source of influence came mainly from the organized international labour and trade union movements.

It was the war that created both the need and the opportunity for further international action. The intense demands of wartime production placed vast pressures on labour throughout the belligerent states, and at the same time created new political opportunities. To his own question why Versailles had strayed from the traditional agenda of peacemaking to include its provisions for labour, Périgord's response was that the war 'had been in reality a war of peoples' (Périgord 1926: 19): the organization for war production made demands upon society at all levels, and engendered strong expectations of recompense in return. The suffering in the trenches, combined with the efforts on the home front, both fuelled the demand for 'homes fit for heroes', and contributed to the widespread expectations of improvement that surrounded war aims and outcomes.

There can be little doubt that, politically, organized labour found itself in a more powerful bargaining position in consequence. Even the typical voice of the employer in America could acknowledge 'the prestige and power acquired by labor during the war' (Robinson 1926: xxii). Demands for greater social justice came to be intermingled with demands for a just peace, and

labour was able to flex its newly found political muscle to benefit from the situation (Luard 1977: 133–4). It was the resulting ‘ferment and instability’, as well as the sense of humanity and justice, that prescribed ‘immediate and constructive action’ (Morse 1969: 4). The precise significance of this assertion, in the volatile political situation of 1918–19, is itself the matter of some heated debate, as will be explained in the next section. In short, the situation at the end of the war marked some kind of equilibrium point whereby the need to formalize protection for workers balanced their political power to register the claim successfully. Whether that programme was eventually to be delivered in practice is, of course, quite another story.

The provisions of Part XIII of the treaty set up the machinery for dealing with international labour regulation, and outlined the key areas within which remedial action was most urgently required. Institutionally, the ILO had several component parts. There was to be the regular conference, in which government and non-government interests would be represented, and which would meet at least once per year. There was set up also, under the guidance of a Director, the Office in Geneva that would provide the permanent administrative and research support upon which its initiatives would so critically depend. This was to fall under the oversight of a governing body (Northedge 1988: 178).

In order to shed light on the critical questions of interest to this chapter, we need to get a sense of when and by whom those initiatives were to be taken, and what the paramount considerations of the various players appear to have been. To prepare the ground for this exercise, we first need some background on how the central ideas that became the labour provisions of the treaty came to be adopted, and how they evolved. This background is best provided in the form of a brief drafting history of the key provisions. These fell into two parts. The first was the inclusion in the League Covenant of what resulted as its Article XXIII on labour legislation. The second was the drafting of the Preamble and the various articles that were to form the substance of Part XIII of the peace treaties. In combination, these offer us a good sense of the priorities of the drafters, and a glimpse into their most pressing concerns.

In the final version, Article XXIII of the League Covenant read that the members of the League would ‘endeavour to secure and maintain fair and humane conditions of labour for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations’. Given that in mid-December 1918 Wilson had been vaguely groping toward some measure on the limitation of the working day, how had this specific formulation come to emerge?

When we review the general histories of the drafting of the Covenant, it is notable that some of the early versions make no mention of any such article or provision. There is no comparable element, for instance, in the Phillimore Plan, or in the early drafts of Colonel House, or in the first draft of Wilson (Miller 1928, ii). Interestingly, in the Smuts Plan of December 1918, we find the following observation in his commentary: ‘Then again, there is the vast subject of industrial conditions, involving international labour conditions, which will call for expert inquiry and statesmanlike handling by the League’ (Miller 1928, ii: 44).

The first explicit mention in Wilson’s versions is to be found in his second draft, or first Paris draft, of 10 January 1919. It read as follows:

The Powers signatory or adherent to this Covenant agree that they will themselves seek to establish and maintain fair hours and humane conditions of labor for all those within their several jurisdictions who are engaged in manual labor and that they will exert their influence in favor of the adoption and maintenance of a similar policy and like safeguards wherever their industrial and commercial relations extend.

(Miller 1928, ii: 90; i: 40)

This appeared in a list of six supplementary agreements, and much of it survived into the final version. What is notably missing from it, in comparison to the final article, is any commitment to setting up the necessary international organization. These two elements seem to have come together shortly thereafter, as the ‘fair hours and humane conditions’ found in Wilson’s version was combined with existing British drafts, both in the Percy amalgamation, and in the Cecil-Miller Draft of 27 January (Miller 1928, ii: 118, 140). Interestingly, Miller recorded on Wilson’s second draft his comment that ‘the pious hope regarding hours and conditions of labor would be a cruel disillusionment to the masses who have supported and are supporting President Wilson in Italy, in France, and in Great Britain’ (Miller 1928, i: 47). The possible significance of this remark will be returned to below.

The full article in what was to become its final version is recognizable in the draft passed at the sixth meeting of the Commission. We are told that ‘the discussion was brief’, because ‘the Article was not contentious’. Thereafter, and as we shall see, despite his being the prime instigator of a labour organization, the chief British delegate, George N. Barnes, appears to have made a belated effort to remove the reference to establishment of such an organization in the Article (Miller 1928, i: 340). However, the reference was not dropped. Instead, we are told, it was included to give it ‘the prestige of mention in the Covenant’ (Miller 1928, i: 417).

Part XIII of the peace treaty is much lengthier, and has a comparably more complex drafting history. The short version of this history, as follows,



is provided only insofar as it sheds light upon the issues to be explored in further detail below, particularly with regard to authorship of the provisions, and the priorities of the respective players.

Within the Labour Commission tasked with drafting the treaty provisions in this area, it is hardly surprising to discover that different priorities were in play. One early official history commented that it was ‘not long before very divergent views began to appear’ (ILO 1931: 26–7). These were prominent among the representatives of the ‘big three’ powers. The leading spokesman for the USA was Samuel Gompers of the American Federation of Labor (AFL), and he was elected Chair of the Commission. Gompers brought to the table a pronounced ‘non-political’ approach to labour issues, and was very reluctant to see governmental machinery established to deal with the matter. For him, reflecting his own domestic experience, the key was to create a legal context that allowed labour to organize itself, and so flex its muscle in this way. From the outset, he argued in the Commission for inclusion of these enabling conditions. For instance, on 4 February 1919, the Minutes of the Commission record that he dissented from British proposals, as the AFL wished to see included in the Treaty of Peace ‘an eight hours’ day, abolition of home work, freedom of association, of meeting, and of the press’ (Shotwell 1934, ii: 154). This was as much a log of demands for civil liberties, as it was a set of labour principles. Lloyd George recalled Gompers having been opposed to government servants and politicians being included at all in the new labour organization (Lloyd George 1938: 653–4).

The main fault-line within the Commission was whether it should be mainly preoccupied with developing specific labour principles and proposals, or whether it should concentrate instead on building the appropriate machinery to deal with such matters. The British delegation, headed by Barnes, was closely identified with the latter approach, while the French and the Americans—but in different respects—leaned towards the former. In this light, Lloyd George was sufficiently uncharitable towards Gompers to have commented acidly that he ‘helped things along by his discovery that urgent business demanded his immediate return to the States’ (Lloyd George 1938: 652–3), thus leaving the way clear for George Barnes, his Deputy, to Chair the closing stages of the Commission. In the event, the final articles were some kind of compromise, as they covered both elements—machinery and specific concerns—but the balance was heavily in favour of the former, and has tended to be understood as a victory overall for the British approach.

Various British ministries, especially Labour, had long had under review how best to move these concerns forward. As a result, the British position had solidified relatively early. Already, by mid-January 1919, the British War Cabinet had agreed upon some central principles (Shotwell 1934, ii: 117–20;

Phelan 1934: 110): the creation of a permanent labour organization; representation from employers and workers, as well as from governments; and the right of each of these representatives to vote independently.

Although in the end not opposed to these British initiatives, early French drafts reflected a different set of priorities. Rather than long-term institutional development, they concentrated instead on short-term reforms. They demanded jam for the workers today, whatever other additional benefits the future might bring. All the early French drafts included long lists of specific suggestions for labour legislation (Shotwell 1934, ii: 93–108). They wanted the peace treaty to confirm pre-war conventions that had already been signed, and to introduce other new reforms (Picquenard 1934: 96). In the end, the Commission came up with a compromise, but one that met the bulk of British demands. Barnes, in his speech delivering the draft constitution, graciously referred to this compromise, acknowledging the list of nine major issues or principles that had been added to the treaty almost as some kind of afterthought:

Great hopes have been raised of something of a direct nature being done by the Peace Conference itself through some terms in the Peace Treaty. It was not within our competence to deal in detail with specific questions of industrial improvement... At the same time, the Commissioners were so impressed with the need for recognising some principles that they decided to submit some principles to the Conference.

(Lloyd George 1938: 664–5)

Although himself initially strongly opposed to inclusion of a set of abstract demands, Barnes apparently had some second thoughts, and was won around to the idea that there was advantage in having these as a matter of record, as ‘useful reminders sometimes of the principles to which Governments are committed’ (Howard-Ellis 1928: 218–19).

Beyond these matters, the Commission had dealt with a number of substantive issues. Those pertaining to the composition and voting rights of the organization will be discussed later. The other two central issues related to the status of the findings of the labour conferences, and how the organization should deal with the differing ‘stages of economic development’ of those countries represented within it. Gompers knew only too well that no proposals to make ILO initiatives binding would be acceptable to the US Senate, and in any case he was to argue consistently for special terms to be applied to a federal state like the USA. Under the terms of Article 405, as agreed, it became binding to place an agreed recommendation from the conference (i.e. one that had enjoyed a two-thirds majority) before a national legislature, but if that body then decided to take no further action, ‘no further obligation shall rest upon the Member’ (Carnegie Endowment 1924: 245). The emphasis was

not to be on compulsion, but rather on voluntary compliance, reinforced by moral suasion. It was also conceded that, despite the wish for universal standards, there were practical problems in applying these to all countries from the outset. It was deemed preferable to make the provisions flexible, thereby to encourage the participation of countries without their own well-developed bodies of national legislation, as against excluding them by making the compliance too strict: engagement was to be the order of the day. Accordingly, Article 427 acknowledged that 'differences of climate, habits, and customs, of economic opportunity and industrial traditions, make strict uniformity in the conditions of labour difficult of immediate attainment' (Carnegie Endowment 1924: 252).

The final footnote to this brief survey is that the ILO was to become operational almost immediately. Its first conference was summoned for late October 1919, and was hosted in Washington, albeit somewhat ungraciously (Fosdick 1966: 64, 76). Its agenda had already been set by an Annex to the Articles of the Peace Treaty, and covered the 8-hour day, unemployment, women's employment, and the employment of children (Carnegie Endowment 1924: 252). There were thirty-nine countries represented at the conference (Temperley 1924, vi: 465). At this conference, Germany and Austria were admitted as members, despite the forecast of one American representative that there would be a 'merry fight' over their admission (Fosdick 1966: 66). A senior British official reported there 'could be no question of keeping Germany out', on the grounds that she was a 'formidable industrial rival' (Butler 1941: 48). The admission was carried by a vote of 71 to 1 (Temperley 1924, vi: 465). Although the ILO was formally a part of the League structure, it was already out of line with the League on the matter of its membership.

## THE HISTORICAL DEBATES

In order to assess how, and to what extent, prevailing ideas about international legitimacy were shaped by influences extending beyond international society, we need to place the creation of the ILO in its policy and normative context. However, it is helpful to consider first some of the principal historical debates that are relevant to any such assessment. There are three inter-connected issues that merit our attention. The first concerns the identity of the principal actors who were responsible for pressing labour regulation onto the international agenda; the second is about their motives for this undertaking; and the third is the question of the seriousness of the intent that underlay the enterprise. Any attempt to trace the impact of world society upon international society's

absorption of ideas about social justice needs first to take stock of existing interpretations on these salient points.

We can begin by attempting to identify the moving force behind the establishment of the ILO. Unlike in the previous cases where there was an identifiable state ‘norm entrepreneur’—Britain, Russia, and Japan respectively—it is much more difficult to pinpoint the prime mover evidently responsible for pushing the ILO. In order to clarify this point, there is a need further to retrace the drafting history of the labour provisions in the peace treaty. What this seems to indicate is that the United States, Britain, and France have all, in varying degrees, claimed paternity of the ILO, but that in reality they all contributed significantly, albeit while trying to produce offspring with different characteristics.

The situation as regards the United States is relatively clear. We have noted President Wilson’s remarks to House in mid-December 1918, as being indicative that there was no clear American plan of action at this stage. There is ample evidence to support such a view. As one analyst notes, there is no mention of the labour question in Wilson’s Fourteen Points at the beginning of that year (Fleury 1998: 510). Other well-placed commentators are equally adamant that labour conditions enjoyed no prominence whatever in early American planning for the peace settlement. ‘There is no evidence that any such plan for erecting a world organization for labor legislation was entertained’, says one categorically (Magnusson 1934: 97), ‘either at Washington or by those who, under the direction of Colonel House, were preparing the American documents for the Peace Conference’. It was to be September 1918 before an expert was appointed to prepare a memorandum on the issue, and the appointee, John B Andrews, reported the following on 14 September:

As the war continues the position of labor in national and international politics is likely to assume increasing importance. Demands for protective labor regulations, which shall create a minimum standard of labor below which no employee shall be permitted to fall, are likely to become increasingly pressing. These developments may become exceedingly important factors in the determination of peace terms.

(Shotwell 1934, ii: 88)

It is unclear whether it was this kind of suggestion that had begun to focus Wilson’s mind upon the topic. Wilson was also receiving pertinent reports from other quarters. He had despatched his adviser Baker to Europe in the spring of 1918. Baker reported back on the need for Wilson to capitalize on his support among liberals and socialists in Europe. In a letter sent in late 1918, Baker urged Wilson to back the plans to hold an international conference of workers at the end of the war (Floto 1973: 32–3). His tentative reflections in mid-December suggest that nothing was as yet fixed in his mind.

There are then reports that the issue was to be reinforced just as the President prepared his departure for Paris. Raymond Fosdick, a member of the US peace delegation, was on his way to board the *George Washington* when he met a group of workers who claimed that there was a man aboard the ship who was going to Europe to improve their working conditions. His account continues as follows:

At Bullitt's urging, Fosdick told Wilson the story, using it to argue strongly for the inclusion of a bill of industrial human rights in the peace treaty. The President replied that it frightened him to think how much the common people of the world expected of him, but he did not consider it possible to take up such matters at the peace conference; rather he hoped that the international labor conference which he favored would press for such a bill.

(Thompson 1966: 44)

This conveys no real sense of commitment, and is consistent with other evidence about Wilson's reluctance to push the matter. Nonetheless, as we have seen, the US representative Samuel Gompers was to Chair the Labour Commission, and so to play a pivotal role in the proceedings. In one sour recollection, it is noted of the ILO that 'according to Mr. Gompers, the American delegation to the Peace Conference wrote the heart and soul of its constitution' (Périgord 1926: ix). Any such claim scarcely warrants close scrutiny, and is no more credible than the suggestion in the House papers that it was Wilson who 'developed' the idea for the creation of the ILO (Seymour 1928: 297). If anything, it was the diffidence of US labour leaders, such as Gompers, that contributed to the lack of dynamism on this issue on the part of American political leaders.

We have noted Gompers' preferences above, and this undoubtedly rendered the US delegation hamstrung with regard to any seizure of the initiative. 'The dearth of specific proposals by the American Government for the creation of any kind of international labor organization at the Peace Conference', it has been suggestively commented, 'was merely a reflection of the proposals of the American labor leaders who... were more interested in securing recognition of the rights of labor than in setting up a permanent government organization to deal with labor problems' (Magnusson 1934: 99). In this version, the initiative clearly came from the British, and Gompers—far from drafting the constitution—went along with it, only after being assured that it would not impede his own preferred way forward. In one overall verdict, Gompers was 'more interested in the program of the International Labor Organization than in its structure' (Riegelman 1934: 77).

This then directs the spotlight onto the British contribution instead. In the version of events recounted by the then Prime Minister, it was Britain and

George Barnes that steered the issue through the Commission. It was Barnes 'who took the principal initiative on the establishment of the International Labour Organization and in the framing of its constitution' (Lloyd George 1938: 651–2). In the general election called at the end of 1918, the British Labour party issued a platform that called for 'a peace of reconciliation fortified by an international labor charter' (Mayer 1967: 150). Barnes was in a position to seize the initiative because of earlier British preparations, which resulted in a situation in which 'the British Delegation alone were ready with a worked-out scheme, and their plan became the basis on which the whole discussion proceeded' (Lloyd George 1938: 651–2). This might be thought no more than prime ministerial bombast, but it has some basis in truth. As we have seen, the strong British steer was for the Commission to concentrate upon the constitution of the new organization, rather than upon substantive labour questions. This, in fact, is largely what was to eventuate. That it did so appears to have been the result of a mixture of agreement and artifice. There was some agreement from both the Americans and the French, but the agreement of the Americans appears decisive.

Mr Phelan was the representative of the British ministry of labour, and became secretary of the British labour section at the conference. He arrived in Paris early in January and soon made contact with Professor Shotwell of the American delegation. According to Phelan's memoir, Shotwell was won round to the suggestion of establishing permanent machinery, and Shotwell, in turn, arranged a speedy meeting with D. H. Miller on the issue. In Phelan's account, 'there seemed to be indications that the United States Delegation would be favourable to the principle of the British scheme' (Phelan 1934: 114–15). This is largely corroborated on the American side. When the British delegation submitted its draft proposals on 21 January 1919, Shotwell commented upon them that this 'shows how much further the British plans had developed than those of the American and French Delegations' (Shotwell 1934, ii: 138).

While this observation rings true in relation to the United States, it is only partially so in relation to France, and this is where there was to be some element of artifice as well. There is no doubt that the French also had been early seized of the importance of the labour question in the eventual peace, and the government had established an inter-departmental committee on International Labour Treaties in August 1917, under the chairmanship of Léon Bourgeois. There was also to be substantial coordination between the British and French. Malcolm Delevingne of the Home Office raised with his French counterpart Arthur Fontaine, ahead of the Armistice, the matter of labour legislation in the context of the peace negotiations (Picquenard 1934: 86–7). Fontaine replied positively, and certainly persuaded British officials that the French were receptive to the proposal for setting up an international

organization (Phelan 1934: 111). What appears to have been less amicable was the precise mechanics adopted by the Labour Commission at the behest of George Barnes. The French had evidently, as the record demonstrates, prepared a number of draft proposals, but they had not yet been translated when the Commission first met. There is therefore some recrimination in the recollection that 'draft conventions prepared by other nations had not yet been translated into English, so Mr Barnes moved that the English document be adopted as a basis for discussion... It is incorrectly, therefore, that some writers have given the British entire credit for this new Charter of Labor' (Périgord 1926: 86–7; Shotwell 1934, ii: 153).

This is about as much as can be pieced together on the question of the origins of the initiative to advance labour in the peace settlement. We need now to consider the hotly contested question of the reasons for doing so. It is only by forming some assessment of the sincerity of the motives—as opposed to engagement in empty rhetoric—that the scene can be set for the core discussion to follow.

The issue of motives is central to this second debate in the historical literature. Essentially starting from a shared initial premise, there are then two contrasting accounts of the reasons for the inclusion of the labour section in the treaty, and for the establishment of the ILO. The shared assumption is that there was indeed a lot of pressure coming from organized labour to have its demands met at the peace conference, and that there was a 'need' to respond to this demand. At this point, the two interpretations part company, and each provides a differing version of the nature of the need that had to be thus addressed. According to one version, the need was a social one, and had to be responded to on the basis of a conception of social justice. According to the other version, the need was a political one, and had to be defused to forestall serious unrest, let alone the prospect of revolution. Similar claims could be made on behalf of both, but the underlying motivations should not be equated. What complicates the effort to reach a satisfactory distinction between them is that both were overlain by an apparently third, and separate, motivation, namely that of contributing to the preservation of peace. Some attempt is now needed to unravel these various issues. This can be done in two stages: the first compares those interpretations that argue the ILO was a safeguard against Bolshevism, against those which view it as a constructive contribution towards international peace; the second explores the apparent sincerity and genuineness of the claimed reasons, and considers whether the ILO was an effort to solve social problems, or simply a means out of political difficulties.

Under the impact of historical revisionism, the Versailles peace settlement, and Wilson's new diplomacy, came to be presented as the opening rounds of the Cold War: the driving concern was how to respond to the Bolshevik

revolution, and to contain its influence within Europe. If this tended by the end to generate a somewhat one-dimensional portrait of the complex peacemaking that took place, it was nonetheless hardly surprising that those historians who bothered at all to note the labour provisions in the Covenant and Treaty should have readily succumbed to such a view: the emergence of social justice, arising phoenix-like out of the ashes of the Bolshevik revolution, had a compelling logic behind it, and this was certainly a seductive interpretation. Most notably, within his overarching thesis about containment at Versailles, Arno Mayer included the establishment of the ILO, among those actions taken 'with a view to immunizing the non-Bolshevik Left against the ideological bacillus of the Bolshevik Revolution' (Mayer 1967: 9). It was a view fostered from the very outset in some quarters. The US representative of business and the employers on the American labour delegation, Robinson, had given it one early expression. Writing retrospectively of his own position, he recalled that 'even a conservative thinker felt that one of the best ways of holding back Bolshevism and various forms of socialism would be to set up an organization where the labor problem could be discussed and recommendations made ...' (Robinson 1926: xxv). More recently, it has been asserted bluntly by one perceptive analyst that 'at its origins in the making of the Versailles Treaty in 1919, the ILO was the response of the victorious powers to the menace of Bolshevism' (Cox 1996: 422). Others come close to the same position. 'The Bolshevik revolution helped to work a miraculous change of attitude among the Western ruling classes', and in this context 'Lloyd George and Clemenceau both thought that a clause on labour in the covenant of the League would be very helpful in calming their workers down' (Macmillan 2001: 104). Clemenceau, it is reported, believed that the labour measures would 'produce a good effect on workers in France' (Mayer 1967: 364). If there was nothing more to this initiative, the present case study could make little contribution to the overall argument of this book. Sceptical voices have, however, been raised about this thesis, at least insofar as it is presented as the only driving force behind all the peace terms. Some, in particular, have cast doubt on Wilson's own appreciation of the social dimensions of the Bolshevik threat (Thompson 1966: 40, 44, 387), and one is left to wonder why, if this was the key to the peace, Wilson's own thinking about it developed so late and so half-heartedly.

Both at the time, and since, another argument has also been presented, and has received a polite hearing. This is the argument that finds expression in the preamble to Section XIII of the Treaty, namely that peace can be founded only upon social justice. While, instrumentally, this might have the secondary effect of eroding the power of Bolshevism, this was not its principal intent. What is so striking about this rationale is that it makes the case that international society became exercised by social questions precisely because they now fell



squarely within its own traditional agenda. Simply put, in the words of one early commentator, ‘the International Labour Organization . . . was bred of the belief . . . that the solution of purely political problems would be sterile, unless some solution could also be found to the social problem’ (Temperley 1924, vi: 462).

In its own report on its work, the Labour Commission concluded that ‘the Constitution of the League of Nations will not provide a real solution of the troubles that have beset the world . . . unless it provides a remedy for the industrial evils and injustices which mar the present state of society’. It then went on to suggest that in creating the labour organization, ‘it was taking an indispensable step towards the achievement of the objects of the League of Nations’ (Howard-Ellis 1928: 206). In this way, the ILO was not simply a part of the League, organizationally, but philosophically as well. George Barnes, in a speech when submitting the constitution of the ILO, pointed out that ‘labour regulations and improvement’ were, for this reason, ‘an integral part of the work of a Peace Conference’ (Lloyd George 1938: 658–9). The ILO was thus a ‘means to the end of peace’, and ‘a mechanism which is to assist in achieving the great purpose of the League’ (Corbett 1953: 18).

This leads to the second and related issue of whether or not declarations of intent should be taken at face value, and how serious the participants were in their professed goal of social improvement, as opposed to simply defusing their political problem. For purposes of this study, can we speak meaningfully about changing conceptions of the scope of international legitimacy, or are we simply reviewing an episode in political pragmatism and instrumentalism?

Before setting out the main claims of this chapter, we should consider the negative interpretation that there was much less to this entire episode, in terms of fundamental rethinking about international normative standards, than initially meets the eye. In short, there was far more political dexterity than any seriousness of purpose in the provisions that were reached. One early study provides a telling summary of this perspective, with regard to the announcement of the establishment of the Commission to deal with international labour legislation at the peace conference:

The general opinion seemed to be that this action was to be explained as a counter-move to the labour conventions of the Socialists and Trade Unions, which were at that moment threatening to throw the whole weight of the international labour movement in opposition to the work of the Paris Peace Conference . . . The taint of suspicion that this was the case lingered all through the Peace Conference, and a certain indifference towards its work was noticeable upon the part of those occupied with the more normal labours of treaty-making.

(Temperley 1920, ii: 32)

What is the evidence for this ‘indifference’, and to what extent were the efforts of the Labour Commission seen to fall outside those of ‘normal’ peacemaking? Strong evidence that a number of key participants did little more than go through the motions is provided by British sources. On 2 April 1919, George Barnes wrote from Paris to Lloyd George in the following dispirited, and cautionary, terms:

But what struck me yesterday was the attitude of the Foreign Secretaries. Except for Mr Balfour no one appeared to regard labor settlement as of any importance. One of the Secretaries said that, in his judgment, it was not Labor but Territory which was agitating the minds of peoples . . . if it gets abroad that the Peace plenipotentiaries are only taking a languid interest in Labor adjustment, then Labor will be very wroth and will have reason to be so.

(Lloyd George 1938: 655–6)

This lack of engagement was to be found also at the highest levels. According to Lloyd George, when the Labour Commission finally reached agreement, Wilson and Orlando were ‘sympathetic’, whereas Clemenceau ‘was indifferent but not obstructive’ (Lloyd George 1938: 657). This appears less than the stuff of which international normative revolutions are made. There is, however, another gloss that can be placed on these events. It does not wholly dissent from the view that some of the political leaders were reluctant, or indifferent, players in this particular drama. Nor, for that matter, does it dissent from the view that there was much political calculation in the response to the labour situation in 1918–19. Indeed, a great deal of effort was invested in making sure that the important ‘appearances’ were correctly presented. However, far from diminishing the importance of international society’s engagement with social justice, this view reinforces it from a different direction. It was precisely because the arguments were being pressed, both with *political force* and with *normative conviction* that the demands had to be treated seriously, and in doing so were to leave a lasting imprint on the face of international society. To comprehend this perspective fully, we can now turn to the details of this encounter between international and world society over the norm of social justice.

## SOCIAL JUSTICE AS WORLD SOCIETY ACTION

There was considerable concern with the presentational aspects of the labour issue in 1919. This might be taken as evidence of disingenuousness. On the other hand, it can be read also as evidence of the need to be seen to respond

to popular pressures, and this section will document the nature and extent of that wider public engagement with the peace settlement, insofar as the establishment of the ILO was concerned. One contemporary observer had suggested that credit for the ILO lay not with the peace conference itself, as it 'was almost imposed upon them by a great wave of popular sentiment' (Périgord 1926: 81–2). To the extent that this was so, it presents international society's adoption of a principle of social justice in a very particular light.

It has been claimed that the ILO was 'a response to the revolutionary demands of labour in 1918–1919' (Howard-Ellis 1928: 220). At the very least, the principal peacemakers showed acute awareness of the level of this demand, and were eager to be *seen* to respond to it. This is pervasive in the documentation of the period. Participants in the Labour Commission appealed consistently to the likely reaction of the public when making their points. And so Samuel Gompers argued strenuously against giving government representatives in the Conference two votes (against one each for the workers and employers), since it 'was necessary to take account of the sentiments of the working classes', and they would find any such arrangement unacceptable (Shotwell 1934, ii: 159). The French Labour Minister, M. Colliard concurred, and insisted that it was 'necessary to prevent any possibility of the working classes being disillusioned by the results of the work of the Commission' (Shotwell 1934, ii: 158).

While being seen to respond to popular concerns, some of the representatives were also mindful of other domestic constituencies. Hence, in his public relations for the US delegation, Professor Shotwell was equally concerned not to alarm conservative opinion in the United States that the labour arrangements under consideration at Paris amounted to some kind of socialist charter. On 18 January 1919, on the announcement of labour legislation being included on the agenda of the first plenary session of the peace conference, Shotwell wrote a telling press release. 'It should be pointed out that the labor plans discussed above', it reminded its readers, 'contemplate only specific labor problems and are confined to remedial humanitarian legislation without regard to the existing social and economic order' (Shotwell 1934, ii: 127). Finally, the need to address a wider public audience was paramount at the end of the Labour Commission's work. As it contemplated whether or not to hold a plenary session, its then chair, George Barnes, was adamant that 'the whole world was in ferment' over this issue, and as a result it 'was most important to issue this report in the most striking manner possible, in order to convince the world that the Peace Conference was taking the labour question seriously' (Shotwell 1934, ii: 383; Lloyd George 1938: 665).

What then was the evidence for this 'ferment'? Some of it had developed since the onset of the war. This was certainly so within the framework of the

organized trade union movement. For all that the 'workers' defected from the internationals during the war, and were seduced by national appeals instead, the trade unions had still operated as a partially effective transnational network during the war. At its annual meeting held in Philadelphia in 1914, the AFL adopted a resolution that a labour conference should be held to coincide with the eventual peace conference in order to press the demands of labour (Périgord 1926: 73). This resolution, we are told, 'was widely circulated throughout the trade unions of the world' (Howard-Ellis 1928: 213). It was reaffirmed over the next two years, and became an important element in the inter-Allied Trade Union Congress held at Leeds in 1916 (Mahaim 1934: 17–18).

The Leeds Congress, in turn, was to be a notable event in the wartime history of this issue. Thus was established the precedent to be followed in succeeding conferences, such as those held at Stockholm in 1917 and Berne in 1918, demanding the inclusion of labour clauses in the resulting peace settlement. According to an official ILO history, the various resolutions had the common theme of insisting that the peace should 'safeguard the working class of all countries from the attacks of international capitalist competition and assure it a minimum guarantee of moral and material order...' (ILO 1931: 25–6). By all accounts, the Leeds Congress was a landmark event. Well-informed observers trace a direct lineage between it and the drafting of the labour provisions in the peace treaty. 'While it is impossible to say whether those who were responsible for the Peace Conference would have included social legislation in the Peace Treaty had the Leeds Conference not taken place', suggests one, 'it was the Leeds Conference which brought the ideas of labor into line with those later embodied in Part XIII of the Treaty of Peace' (Riegelman 1934: 64–5). In turn, the resolutions passed at the Berne conference, so it is claimed, 'left a substantial imprint on the labor charter in the Versailles peace treaty' (Mayer 1967: 398).

Can we be sure that all this had an impact on the peacemakers? That they were aware of the demands, there can be little doubt. A future Director of the ILO has subsequently commented that the peacemakers 'had to take due account of the international workers' conferences' (Morse 1969: 7). One heavily involved official at the time, Harold Butler, has similarly expressed the view that the 'Leeds programme undoubtedly influenced the British and French Governments in deciding to bring forward the matter at the Peace Conference' (Butler 1939: 5).

The world beyond the narrow circle of peacemakers was involved in other ways as well. This was not a pressure exercised only at distance, as civil society representation was drawn into the process of consultation, and this must stand also as some measure of the influence that had been brought to bear

upon governments. Two examples illustrate the general point. First, at critical junctures in the drafting of its provisions, the national delegations on the Commission consulted labour representatives on the proposals under consideration. Typically, in the British case, TUC representatives, including Arthur Henderson, were invited to Paris to discuss the British drafts in meetings in late January (Phelan 1934: 121). Secondly, women's groups and associations specifically were invited to appear before the Labour Commission. Six of these associations appeared on 18 March 1919 (Shotwell 1934, ii: 273–4). We are told that 'there is no doubt that the activity of these associations of women exercised a noticeable influence upon the decisions of the Labor Commission' (Périgord 1926: 105).

In these respects, the Paris Peace conference generally was a much more public affair (except at the heart of the meetings of the Council of Four) than had been peace conferences traditionally. The exposure to popular influence of the workings of the Labour Commission, to this extent, was of a piece with what went on in other areas of the settlement. Once again, however, the claim that world society was successful in persuading international society to buy into a part of its wider agenda rests not merely on the overt political pressure that it was able directly to bring to bear. It rests also on the extent to which international society, in accepting this expanded agenda, was rewriting the terms of reference for its own legitimacy principles. That it did so resulted, not only because it succumbed to political pressures and fears of social revolution, but also because it recognized the validity of the claims that were made, and the entitlement of world-society representatives to press their claim. To assess this stronger version of the argument, we need now to turn to the normative dimension of world society's engagement with this principle.

#### SOCIAL JUSTICE AS WORLD SOCIETY CLAIM

This section will proceed in two stages. The first attempts to explore the nature of the social claim advanced in support of the treatment of labour issues in the settlement. This can best be done by reviewing the stated goals of the peacemakers, and by outlining the points of principle under which the issue was advanced. Secondly, the general aspect of rightful membership (that is to say, who is entitled to register a claim) needs to be considered. This will be done through specific consideration of the membership criteria and voting procedures adopted with regard to the ILO's regular conference. This was to be a highly innovative mechanism, and its significance extends well beyond that traditionally recognized.

The place to start is with the symbolic importance of the statements of 1919, as well as of the institutions that were created. In short, as one official commented of the nine principles embodied in the peace treaty, 'recognition in a treaty binding the majority of Governments in the civilized world was a milestone in social history' (Butler 1939: 7). In this context, it is the 'recognition' that is so significant.

As has been noted, it was in the preamble to Part XIII of the peace treaty that the fundamental bases of the labour provisions were to be explained. There was to be an attempt to achieve social justice as a contribution to universal peace. The preamble noted also that 'the failure of any nation to adopt humane conditions is an obstacle in the way of other nations which desire to improve the conditions in their own countries' (Carnegie Endowment 1924: 238). Such a statement explained the inherently collective nature of the endeavour to improve labour conditions, as the problem had to be approached on an international basis. It can also be seen as a kind of 'socialization' mechanism, whereby the slowest would be pressurized by the fastest to implement sound practices. It is not too far-fetched to represent this as a form of collective social security, as a counterpart to the Wilsonian apparatus for collective security in the political and military sphere. Although concessions were to be made to those countries with 'less advanced' social and economic systems, it was at least implicit that 'universality' was to be 'built firmly into the ethical framework' that was being adopted for labour (Jones 1991: 41). Above all, as the preamble insisted, the High Contracting Parties were motivated by a dual concern, being both 'moved by sentiments of justice and humanity', as well as 'by the desire to secure the permanent peace of the world' (Carnegie Endowment 1924: 238).

What did all this signify, and was it anything more than empty rhetoric? Whatever the precise intentions, the words conveyed an important message with a yet wider resonance. What so clearly permeates the debates of the Labour Commission, and the articles and institutional provisions devised by it, is the understanding that it was operating at the interstices of two societies, the inter-state and a social world that extended beyond it. The appeal, implicit and explicit, was to an all-encompassing social reality of which both formed a part. We can see this in the institutional arrangements of the organization which 'provided a structure through which transnational perspectives could be brought to bear' (Jones 1991: 37), rather than exclusively inter-state ones. This was underpinned by a fundamental conception that 'states and classes are not ultimate realities but mere temporary attempts of humanity to organize its communal life' (Howard-Ellis: 207). Professor Shotwell, one of the participants in this act of creation, was later to sum up this aspect succinctly. He insisted that the ILO was without historical precedent, and this explains:

the difficulties which were encountered in setting up an institution which, while not intruding upon the sphere of government of sovereign states, would nevertheless serve to coordinate the public opinion of the world in matters of common concern and frame for them . . . a program of reform that would ensure higher standards of social justice throughout the world.

(Shotwell 1934, i: xx)

This captures the two main points. What was being advanced, substantively, was a set of goals to be pursued, universally, in the social sphere. The mechanism for doing so, procedurally, however, was through the states system. What the arrangements amounted to was the commitment of international society to the advancement of this particular set of world-society values. This could be sold to world society on the basis that only the states were in a position to regulate such matters, and able to achieve coordination on an international basis. It could be sold to international society, as we have seen, by making also the argument that social justice of this kind was an intrinsic constituent of international peace.

The ILO encapsulated this grand bargain, and the whole symbolized much more than the individual parts of the treaty would seem to imply. The state members had, of course, to be convinced, and occasionally the pill had to be sweetened to achieve its effect. For instance, given concerns that American political opinion would prove hostile, it was sometimes felt necessary to emphasize the humanitarian aspects to broaden its appeal. Revealingly, it was proposed in one meeting of British and American representatives in January 1919 that protection of children should be given high prominence, as this carried a 'humanitarian appeal wider than that involved in the treatment of other industrial questions' (Phelan 1934: 120).

If public opinion was to be instrumental in the creation of the ILO, it was equally designed to lie at the heart of the effectiveness of its future operation. As a gesture of political realism, and much to the disappointment of some continental European delegates who hoped to see the ILO created as a supreme legislature, there was to be no compulsion in the ILO system. Regulations adopted by a two-thirds majority would become recommendations to be set before national authorities. However, while there was to be no formal enforcement by the ILO, it was expected that there would be enforcement by public opinion. Officials believed fervently that national parliaments would conform to ILO recommendations because of 'the pressure of international public opinion and the pressure of the labour movement in the various countries' (Phelan 1934: 116). In presenting the constitution of the new body, George Barnes affirmed that at its heart lay the 'mobilisation of humane public opinion' (Lloyd George 1938: 660). This is a striking claim made on behalf of

a new international organization within the setting of an international peace conference. That the claim should seem a natural one to make is testimony to the normative revolution that it enshrined.

This point can, finally, be explored from the slightly different perspective of the composition and voting procedures of the ILO conference. This body was, in effect, to become the principal source of policy within the ILO, and would establish the labour standards that the state members were to implement. As already explained, each member state would be represented by four delegates, two representing the government, and one each for the employers and labour. It is hard to comprehend how unusual and path-breaking such an arrangement was considered at the time, and this again is a measure of the quiet revolution wrought by its establishment.

The arrangements were doubly innovative insofar as each representative was entitled to vote independently of the others. To be sure, governments had two votes, but otherwise the vote of a non-governmental representative counted for just as much. As a professor of international law, Shotwell was in no doubt as to just how revolutionary this was as a diplomatic practice:

For the first time in the history of international law, it was proposed to permit unofficial delegates, mere citizens of different countries representing home interests in labor and capital, to vote with similar representative citizens in other countries, independently of the action of the representatives of their governments and so to help actually to bind these governments towards certain international policies and treaties.

(Périgord 1926: 89)

This might be mistaken as an academic issue of international law, but its significance extends well beyond this. What the ILO embodied was a hybrid category of rightful membership, whereby representatives of civil society could become members directly of an institution of international society. By allowing the representatives of labour and capital to have equal standing with governmental representatives on this body, and thereby, as Shotwell explains, allowing them to participate in decisions *binding* upon governments, international society was taking a major step towards an extension of its own principles of rightful membership. In doing so, it of necessity had to act conservatively, and this is manifested in the provision that governments should have two votes, instead of one. This concession raised serious objections from Gompers, and many others. But Barnes made the critical observation, on 13 February 1919, when he noted that it was necessary to make acceptable the great innovation whereby governments 'should consider themselves bound by decisions for which they were not solely responsible' (Shotwell 1934, ii: 175).

The ILO conference could have become a non-official organ of transnational civil society that passed hortatory resolutions, but without political



effect. It could alternatively have become an exclusively governmental body that would have been unrepresentative of those sectors of civil society that had the most direct interest in, and experience of, the matters to be decided. As one of the commissioners pointed out at the time, the Conference could be understood either as a 'gathering of employers and workpeople, with the object of simply passing resolutions', or as a 'Conference of diplomats, with full power to prepare international conventions' (Shotwell 1934, ii: 161). Instead, it became neither of these things, but a mixture of both. It was to be an organ of international society, but with officially recognized membership of representatives of world society. This was, indeed, a body without precedent, and it has endured until the present time.

#### INTERNATIONAL LEGITIMACY AND SOCIAL JUSTICE

These provisions for social justice form the largely hidden dimension of the 1919 settlement. Compared with the great debates about self-determination, reparations, the design of the League, and the 'harshness' of the peace overall, this aspect has hardly registered in the controversies of the historians. To the limited extent that it has done so, it has been as an incidental part in the much greater drama about post-war containment of the Bolshevik revolution. However, to see it in this light alone is to accord less than justice to the significance of the establishment of the ILO in its own right. We would do well to recall the wise words of one of the period's pre-eminent historians. 'We sometimes forget how ambitious the Versailles order really was,' commented Charles Maier (1996: 4). With respect to the ILO, 'the new settlement involved not just incentives for regime transformations, but encompassed as well an effort to construct what we might call today an international civil society'. This is a bold claim, but one that is fully consonant with the argument of this chapter. Whatever the range of political purposes served by the labour provisions in the treaty—and they were many—they struck also a highly innovative chord in the negotiation of world society into the workings of international society. This was so with regard to the substantive acceptance that the regulation of labour conditions be henceforth properly a part of international society's concern, both because of its wider responsibility for humanity, and also on account of the centrality of this conception of social justice to the maintenance of the future peace. It was a significant watershed also for its institutional innovation, whereby representatives of world society would come to sit with full voting rights alongside the official governmental representatives of international society.

This was to impact upon future conceptions of international legitimacy in a number of ways. With respect to rightful membership, it can be seen as a further step towards a more inclusive concept, recognizing the entitlement of social groups *qua* social groups to be represented within the ranks of international society. In significant ways, this served to blur further any sharp distinction between the memberships of the two societies. Substantively, the very extensive remit of the ILO delved into a multitude of facets of human life—working hours, protection of women, safeguarding of children—in ways that prepared the ground for a more universalistic conception of human rights. As the peacemakers in 1919 grappled with the problems of self-determination, they faced the consequential need for minority protection. In subscribing to social justice, they accepted a putative international responsibility for all manner of social regulation. If the writ of international society could potentially run thus far, what in fact was beyond its pale? While its embrace of these topics was ad hoc and piecemeal in 1919, it was unwittingly setting the scene for a direct engagement with a full-blown doctrine of human rights in 1945. Since this has been one of the most unsettling doctrines to have impacted upon international legitimacy, it is only fitting that we give due recognition to the role of social justice in 1919 in preparing its way.

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## San Francisco and Human Rights, 1945

How and why did the human rights provisions in the UN Charter come to occupy so much more prominent a position than had been originally envisaged at Dumbarton Oaks just a few months earlier? What was the source of this elevation? These are interesting historical questions in their own right, but have a particular resonance in the context of this study. Could it be that there was some effective world-society push that contributed to their inclusion in a formal document that was, in many ways, an attempt to reconstitute the bases of international society? ‘What the San Francisco conference did, under the official and unofficial pressures brought to bear, was to respect these phrases in several different contexts, giving them prominence in the Charter’ (Corbett 1953: 35). If so, why did international society accede to these pressures?

Historians of human rights invariably draw attention to the contrast between the high profile of human rights in the Charter, on the one hand, and their relative neglect in both the League Covenant and the Dumbarton Oaks proposals, on the other. The question as to why the resulting shift then occurred is a very natural one to pose. Although the League was to deal, in practice, with various issues of human rights—most notably with regard to minorities—the Covenant nowhere mentions human rights by name (Bennett 1977: 234). The paradox is that ‘the notoriously idealist Covenant’ (Donnelly 1999: 72–3) fails to mention them, whereas the more ‘realist’ Charter gives them a certain pride of place. The transition, in retrospect, appears to have been even more abrupt. As we shall see, the Dumbarton Oaks proposals intended only one brief passing mention of human rights—and this had been controversial enough at the time—in the context of economic and social cooperation (Humphrey 1984: 12; Burgers 1992: 474). Indeed, it has been asserted that it was to be in the area of human rights that the Charter ‘amounted to the most significant changes from the Dumbarton Oaks proposals’ (Borgwardt 2005: 184). The then US Secretary of State at San Francisco was to ask the question in its aftermath: ‘Why is there such a marked difference in emphasis between the two documents?’ His own answer was instructive: ‘It was primarily the influence of public opinion’, he contended, ‘resulting from extended public examination of the Dumbarton Oaks Proposals both here and overseas’

(Stettinius 1946: 1). Was it then by this route that world society was enabled to make its presence felt?

The adoption by international society of a new norm on human rights in 1945 does seem a watershed event (Donnelly 2003). This allows us to explore the general questions at the heart of this study. As expressed by one student of the emergence and adoption of new international norms, 'what is needed is a deeper understanding that accounts for how norms gain authority and how normative authority interacts with motives of state and non-state actors' (Clark, A. M. 2001: 27). In her own account, she suggests the conclusion that 'NGOs, through deliberate social action, build and shape norms, especially principled ones, that would be unlikely to emerge naturally out of state considerations of self-interest' (Clark, A. M. 2001: 138). Unsurprisingly, those taking a more state-centric position would reject, or certainly qualify, any such suggestion. They see NGOs as secondary, not primary, referents, and as being 'dependent' variables in their activities. For Jackson, it is self-evident that 'sovereign states and the society of states are . . . preconditions of transnational society', and NGOs operate only to the extent that the 'states system opens a political space' for them to do so (Jackson 2000: 107–10).

Since human rights norms are so inherently contentious for the states system (Clark, A. M. 2001: 18–19), their adoption by international society offers a particularly fruitful case study of some of these propositions and contending claims. This is especially so with regard to the drafting of the UN Charter at San Francisco since, at first glance, it appears a telling demonstration of the claim that the initiative, in this case, came from outside international society, and was essentially driven by a group of NGOs. Indeed, in much of the literature, this is the classic illustration of such an intervention in international society by world-society groups. Referring to the cluster of NGO Consultants who accompanied the US delegation to San Francisco, one exponent of this thesis roundly claims that 'when comparison is made between the actual proposals of the consultants . . . with the human rights references in the Charter itself, one is struck by the remarkable impact that the ideas and language of the NGOs exerted on the very genesis of human rights in the UN system' (Korey 1998: 41).

Not only were the NGOs to be instrumental in the drafting of the Charter, but also their longer-term position, as previously within the ILO, was to be institutionalized within ECOSOC, under Article 71 (Eichelberger 1977: 272–3), thus giving NGOs a continuing foothold within an international-society institution. This, it was claimed, amounted to little less than 'a revolution in international diplomacy' (Korey 1998: 31). Set against such bold perspectives, we encounter a dose of much colder water when we are reminded elsewhere that 'human rights as such became a formal part of international relations

when important states believed that universal human rights affected their own self-interests' (Forsythe 2000: 35). It will be the task of this chapter to pick its way through these sharply contrasting accounts.

The claims made on behalf of non-state actors in establishing the human rights regime within the Charter will be subjected to detailed examination below, as they are central to the continuing interests of this book. Be it noted, however, that even if they were to be accepted, they would still leave a number of related questions unanswered. Given that the NGOs under consideration were predominantly from the USA, does this mean that it was only pressure upon the US government that was decisive, and that the running was above all made by the US authorities, whether or not pressed to do so by non-governmental groups? Why then was it equally the case that the 'US proceeded with the utmost caution' (Cassese 1992: 25)? Did no other states have a decisive role to play? Even if so, what were the calculations of the US government in succumbing to this pressure? Was the government wholly passive in the face of this leverage from civil-society groups? We are led to examine this carefully by the recollection that it was the state department that had itself initiated the 'consultation' with public opinion, to head off any rejectionist sentiment in the country (Korey 1998: 30; Russell 1958: 594). The consultant organizations invited to San Francisco were there, Stettinius candidly observed, 'to ensure their support for the results of the Conference' (Russell 1958: 595).

Finally, given that, at the very least, the four sponsoring powers from Dumbarton Oaks had to agree to the modifications to the original proposals, why did those other powers decide to go along with any US initiative to heighten the profile of human rights in the final version of the Charter? 'How this was achieved', notes one key protagonist coyly, 'has never been explained' (Humphrey 1984: 12–13). What is offered in much of the literature as the answer to the puzzle turns out, on closer inspection, to present as many puzzles of its own. Before any attempt is made to resolve these, we need to begin with the relevant historical context.

## THE HISTORICAL BACKGROUND

As noted, the League had already undertaken work in the area of human rights, but not by name. This work related mostly to protection of minorities, to issues of labour under the ILO, and to a range of social issues for the protection of women and children. Notably, if anything, it was the general disenchantment with the difficulties of dealing with minority 'rights' that helped encourage the different framework of human rights, as a means to

sidestepping some of these problems. But there is general agreement that it was only with the onset of the Second World War that there was finally sparked enough interest in the advancement of the cause of human rights by that name. To some degree, this was based on the realization that it was the violation of human rights that had contributed to the onset of the war (and not, as became more fashionable to think later on, because the war had made possible the gross violation of human rights). It was 'tyranny at home' that had led to 'military aggression abroad', and hence any future international organization devoted to prevention of the latter would need to deal with its root cause in the former (Sellars 2002: ix-x).

The language of human rights surfaced conspicuously at the highest political levels early in the war. The examples commonly referred to are President Roosevelt's Four Freedoms speech on 6 January 1941, the Atlantic Charter in August of the same year, and the Declaration of the United Nations on 1 January 1942 (Sands 2005: 9-10; Donnelly 1999: 72; Burgers 1992: 470). The Atlantic Charter pledged assurance that 'all the men in all the lands may live out their lives in freedom from fear and want' (Borgwardt 2005: 304). The Declaration adapted this Churchillian phrase into wording calling for the preservation of 'human rights and justice in their own lands as well as in all other lands' (Eichelberger 1977: 188). As its most recent historian has powerfully argued, the contemporary understandings of the signatories to the Atlantic Charter were to be quite different from the historic reception of that document, and it was to take on a powerful symbolic role well beyond the immediate goals and aspirations of its creators. What its language did was to imply 'that the individual was a legitimate object of international concern' (Borgwardt 2005: 29).

Human rights early became the subject of intensive discussion and planning for the post-war world within the US administration, particularly with regard to the creation of a future international organization. Much of this work was undertaken during 1942. The Advisory Committee on Post-War Foreign Policy Subcommittee began to consider a possible bill of rights (United States Department of State 1950: 84), and by the end of the year such a draft bill was ready (United States Department of State 1950: 115-16; Russell 1959: 323-4). This line of thought reflected the weighty tradition of the bill of rights in the constitution of the United States and, in terms of this American planning for the post-war world, it followed naturally that 'interest centered on a possible international bill of rights as an integral part of the new world order' (Russell 1958: 323). It should be noted, however, that in the draft bill, dated 3 December 1942, Article XVI read: 'These human rights shall be guaranteed by and constitute a part of the supreme law of each state and shall be observed and enforced by its administrative and judicial authorities'

(United States Department of State 1950: 485). There was, as this makes clear, to be no international enforcement. The general issue of enforcement was the perceived stumbling block of all these tentative schemes. After a hiatus, the State Department returned to the task in 1944. By that stage, it had clearly decided that specification of a detailed bill of rights needed to be separated from the devising of the constitution of the new international organization (Russell 1958: 329).

US plans became the basic document upon which the Dumbarton Oaks conversations proceeded, in two stages, in the early autumn of 1944. What was decided among the sponsoring powers during these discussions is illustrative of a number of interesting themes that are important for the subsequent unfolding of this story. From the record, it is clear that the inclusion of any reference to human rights in the Dumbarton Oaks version is attributable to US initiative and persistence. The discussions revealed interesting, and crosscutting, alignments. On the general issue of including a body on Economic and Social Co-operation within the UN, the United States and Britain maintained a common front against Soviet resistance, Gromyko arguing that if there were to be any such body, it should be separate from the main organization, which itself should concentrate exclusively on security (Hoopes and Brinkley 1997: 143; Hilderbrand 1990: 86–7). On the matter of including a statement on human rights, however, it was the United States that found itself in a minority of one, facing obdurate opposition from both Britain and the Soviet Union. It was the US alone that recommended any reference to human rights, but this was rejected in the initial version by both Britain and the USSR (Russell 1958: 423; Luard 1982: 31–2).

The draft proposal had been put together by key State Department officials, Leo Pasvolsky and Benjamin Cohen, and was formulated in a revealing way. Its emphasis was upon non-intervention by the new organization, as it was to be the responsibility of each state ‘to respect the human rights and fundamental freedoms’ of its own people. By placing the onus on the states, this would circumscribe the role of the organization (Hilderbrand 91–2). Cadogan, the British permanent secretary at the foreign office, thought this language unhelpful, as it was too vague, and he worried about US motives. When consulted, the British Chiefs of Staff found it ‘objectionable *in toto*’. Gromyko, siding with the British, argued that ‘any reference to human rights and fundamental freedoms was not germane to the main tasks of an international security organization’ (Hilderbrand 1990: 91–2). The US, however, did not desist, and Stettinius expressed the hope that a mention of human rights ‘can be included in some place in the document’ (Borgwardt 2005: 167). A new initiative was launched on 20 September and, interestingly, while the British continued to object, the Soviet Union had become ‘less obdurate’



(Hilderbrand 1990: 92). The US group suggested three possible locations for the reference: among the purposes of the organization, in the chapter on the Assembly, or in the chapter on Social and Economic co-operation. The Russians preferred the last, and agreed, at which point Britain ceased to oppose. As Gladwyn Jebb commented, 'it would be farcical to give the public impression that the delegates could not agree on the need to safeguard human rights.' Accordingly, the phrase to 'promote respect for human rights and fundamental freedoms' was included in the draft chapter on ECOSOC (Hilderbrand 1990: 92; FRUS 1967, i: 223; Tolley 1987: 4). This was to be the only mention of human rights included in the Dumbarton Oaks Proposals.

The major powers subsequently agreed on revisions to the original proposals that would be sponsored by them, ahead of the official opening of the San Francisco conference in the spring of 1945 (Gromyko 1989: 118), and in the meantime a number of groups of states had met to consider the proposals, most notably the states of the Pan-American Union which had convened in Mexico in February. By the time the San Francisco proceedings opened, initiatives to beef up the human rights provisions were being advanced from a number of quarters, with significant effects on the substance of the final Charter. Briefly, we can trace the new initiatives emerging from the USSR, and the Latin American states. US initiatives will be considered further below.

Having been initially against any mention of human rights at Dumbarton Oaks, the Soviet delegation warmed to the subject at San Francisco. In the first meeting of the Four-Power Consultative group on 2 May, a number of Soviet proposals were up for consideration. These included insertion, at various points in the text, after mention of human rights, of the words 'in particular the right to work and the right to education'. The US delegation had already met, and decided to oppose this, as it did not wish to see any selective reference to particular rights. In any case, it is interesting that Leo Pasvolsky commented that 'the Russians were playing up to the small nations and would undoubtedly insist upon this amendment' (FRUS 1967, i: 546). In fact, at the Four-Power meeting, it was agreed to delete the proposed Soviet insertions (FRUS 1967, i: 551–2).

A number of other states also advanced proposals for stronger provisions for human rights within the Charter. Although not exclusively from Latin America, this group of states was nonetheless prominent in making the case. Some Latin American states, especially Panama, proposed to include a formal statement on human rights in the Charter (UNIO 1945, vi: 546–9). It also sought to substitute the word 'protection' for 'promotion', thereby committing the signatories to specific obligations. All such proposals were defeated (Russell 1958: 780–1; Farer and Gaer 1993: 246–7).

Nonetheless, the Charter emerged a notably different document from that originally proposed at Dumbarton Oaks in what it said about human rights.

As a result, human rights enjoyed seven major mentions in the text. South African Prime Minister, Jan Smuts, was given the task of producing the initial draft of the Preamble, and Smuts was on record as saying that ‘the Charter should contain at its very outset and in its preamble, a declaration of human rights’ (UNIO 1945, i: 425). This it did. Notably, it was agreed that human rights would appear in Chapter 1.3 as one of the basic purposes of the UN, something that the USSR had resisted at Dumbarton Oaks. This proposal was put forward by the sponsoring powers on 5 May 1945 (UNIO 1945, iii: 622), and adopted by the relevant Commission I on 20 June (UNIO 1945, vi: 65). Despite earlier Soviet misgivings about ECOSOC forming part of the UN structure at all, the relevant committee voted unanimously on 11 May to recommend that ECOSOC (where major human rights responsibilities were to be housed) should be listed as a principal organ of the UN (UNIO 1945, ii).

On two other issues, the US delegation likewise secured its objectives. As earlier noted, it had been determined back in 1944 that the Charter should not itself include a bill of rights. Rather, this was something that should be devised after the UN had been established, for fear that the whole business would get bogged down in wrangles over the specification of particular rights (Sellars 2002: xii). As we have seen, suggestions to append a bill of rights were rejected. In connection with this, there was disagreement as to whether the article on ECOSOC, empowering it to establish commissions as necessary, should mention a human rights commission by name. Britain, China, and the Soviet Union all preferred that it should not. The US delegation was insistent that it should, and this position was particularly pressed by two of its delegates, Dean Gildersleeve and Commander Stassen. The British preferred that no commission be specified, but the American demand won the day (Tolley 1987: 6; FRUS 1967, i: 533, 535–40, 570–84). It was clearly foreshadowed that the first task of the commission would be to develop an international bill of rights.

These are the bald facts of the negotiating history, and the principal stages whereby the Dumbarton Oaks proposals were transformed into the much more potent statement included in the final version of the Charter. As a precursor to an examination of the reasons for this shift, we can highlight some of the major debates that have surrounded these events.

## THE DEBATES ABOUT SAN FRANCISCO

There are four principal, and inter-connected, debates about the San Francisco conference, and about how we should understand the human rights provisions included in the Charter. These are: whether they were driven by emerging knowledge about the holocaust; whether the provisions were prompted

primarily by state interest and inter-state compromise, or by non-state agitation and pressure; whether the key sponsoring power should be seen as the United States alone, or a number of other states, including the Soviet Union, and various Latin American states; and finally, the overall assessment of the significance of the provisions that were included. These issues can be set out briefly in turn.

The first need not detain us. There is no denying that the revival of interest in human rights during the war was generally related to the sense of their infringement. However, the more specific claim, that the toughened language at San Francisco resulted directly from new knowledge about the scale of Nazi atrocities, does not appear to be supportable. As the principal investigator of this relationship has concluded, most of the policy statements, or specific initiatives, related to strengthening human rights were already in place before the German surrender, and before details of the camps became common knowledge (Burgers 1992: 448, 475). Leaving aside the contentious issue of how much was known before that date, it seems safe to suggest that this formed the background to San Francisco, but by itself is insufficient to explain the particular changes that were introduced.

Closer to the core interest of this book is the debate about the source of the initiatives to strengthen human rights. The main axis of debate here is whether the Charter emerged as it did because of classical state diplomacy and compromise, or, as we have noted, because of the extraordinary intervention of NGOs and other forms of public action. Was this a negotiation within international society, or a negotiation between international and world society? The details of this world-society action will be set out shortly. It forms the basis of the widespread view in the literature that 'the movement for international human rights was born of the American citizens' passion for freedom and justice, and their powers of moral persuasion'. Such a view, Sellars concludes tartly, is 'not borne out by the documentary evidence', and is 'plainly wrong' (Sellars 2002: 3). Other interpretations emphasize, instead, a grubbier tale of state interest, compromise, and traditional inter-state dealing. For instance, the historical account presented by one eminent international lawyer makes no mention of non-state actors, and stresses instead the interests of various groups of states, and the 'compromise' that was struck between them (Cassese 1992: 26). The conclusion reached on this heated debate will have significant implications for the overall thesis of this book.

Thirdly, within the state realm, which country or countries were primarily responsible for pressing a larger human rights agenda at San Francisco? There is an implicit assumption in much of this literature that, without the United States to make the running, the Charter would not have included its distinctive references to human rights. It is certainly the case that, of the major powers,

the US alone brought to Dumbarton Oaks proposals referring to human rights. Britain remained sceptical throughout. The Soviet Union, as noted, initially resisted American suggestions, but finally acceded to them. Does this mean that the United States was the sole state actor pressing the case, or was at least the most influential one?

Some accounts present these issues as if unproblematic. 'The initiative for the inclusion of a human rights provision in the Charter', one standard commentary on the Charter tells us, 'came from the United States' (Goodrich, Hambro, and Simons 1969: 372–3). 'The United States led the Big Four sponsors', echoes another, in introducing the changes (Tolley 1987: 4–5). These are not unreasonable claims, but neither are they quite as straightforward as they might appear.

What role did the Soviet Union play? Cassese notes the significance for these events of 'the conversion of the USSR to the cause of human rights' (Cassese 1992: 25–6). We have already encountered the spate of amendments introduced by the Soviet delegation at the onset of the San Francisco proceedings, mainly with the intent of stipulating a number of specific rights, above all that to work (FRUS 1967, i: 546). No doubt the Soviet delegation may have been playing its own propaganda game, or seeking to stall American initiatives by dragging them into the bog of ideological debate. Nonetheless, the Soviet Union was more receptive than might have been expected, and was the source of a number of initiatives of its own. At a meeting of Commission II, the Soviet representative, A. A. Arutiunian, reflected on the Soviet contribution to the proceedings, and took credit for 'the incorporation into the Charter of... the promotion of universal respect for and observance of human rights...' (UNIO 1945, viii: 56). This might seem a bizarre claim to make, given the conventional picture in the historiography. However, it is echoed in a post-war article written by the distinguished British diplomatic historian, C. K. Webster, recently a British official involved in these negotiations (Reynolds and Hughes 1976). The provisions on human rights in the Charter, he recalled, were 'due to the initiative... of the Soviet Delegation' (Webster 1947b: 35). This, coming from a participant so closely involved at Dumbarton Oaks and San Francisco, should be taken seriously, but muddies the waters that others prefer to keep quite limpid.

If we look beyond the Big Four sponsors, there is broad agreement about the decisive contribution of the Latin American states, and this raises further questions in relation to the role of the United States. At their meeting at Chapultepec in February, the Pan-American Union states had declared their intention to broaden 'the Charter's vision of human rights' (Borgwardt 2005: 172). Indeed, the Latin American states then submitted a range of proposals on human rights to the San Francisco conference. For example, on 5 May,

Brazil, the Dominican Republic, and Mexico jointly submitted a proposal for inclusion in the Purposes (Chapter 1) of a paragraph on human rights very similar to that eventually agreed (UNIO 1945, iii: 602). Panama wanted a statement included in the Purposes, referring to an appended 'Declaration of Essential Human Rights'. This was echoed in similar Uruguayan proposals of the same date, 5 May 1945 (UNIO 1945, iii: 34–5). Uruguay also wanted to *guarantee* the respect for these rights, and to establish an 'effective juridical guardianship of them' (UNIO 1945, vi: 628). Both Chile and Cuba proposed human rights amendments (UNIO 1945, iii: 294, 500–2).

It is possible, of course, that the United States was orchestrating some of these initiatives behind the scenes, but it would certainly not have encouraged the more intrusive demands that it was then compelled publicly to reject, such as those on protection and enforcement. Alternatively, it could be argued that these Latin American initiatives were an additional pressure upon the United States, perhaps pushing it to take up positions beyond those it would have wished. 'The United States also had to accommodate', is one coy comment, 'the human rights concerns of Latin American neighbours' (Tolley 1987: 4). The question of who pushed the agenda is then much more complex than it might at first appear.

If there are these disagreements about the causal story, there is finally also controversy about how to assess the significance of these references in the Charter. Whoever forced their inclusion, did they amount to much? Opinions on this, both then and since, have remained sharply polarized. Although subsequently stressing that the Charter conferred 'no power to enforce the observance of human rights', Stettinius (1946: 1) took every opportunity to draw attention to the historic significance of the achievement. Addressing the conference on 15 May, he offered this assessment:

It is my conviction that the foundation which we are laying here for the economic and social collaboration of nations in the cause of fundamental human rights and freedoms may well prove to be the most important of all the things we do here for the peace and advancement of the peoples of the world.

(Goodrich and Carroll 1947: 434)

Others have begged to differ. The human rights elements have been adjudged elsewhere as 'rather disappointing' (Cassese 1992: 27). The critics tend to be persuaded instead by the degrees of hypocrisy on display, by the lack of enforcement, and by the extent to which the provisions appeared to be cancelled out by the 'sovereignty' clause (Art. 2.7) (Robertson 2000: 26; Sellars 2002: 7–8). Typically, it has been said that 'the lofty language provided an ironic counterpoint to actual state practice', and that the measures were an 'intentionally unenforceable gesture' (Borgwardt 2005: 185, 143). To begin to

engage with some of these issues and assessments, we need now to turn to the evidence for San Francisco as an example of world society in action.

## HUMAN RIGHTS AS WORLD SOCIETY ACTION

It has been shown how human rights concerns and rhetoric emerged at the highest political levels during the early phases of the war. There was also a more subterranean counterpart to this human rights discourse. It is commonly accepted that the author, H. G. Wells, was a prime mover in this development. Wells wrote a letter to *The Times* on 23 October 1939, announcing a Declaration of Rights. This was widely disseminated internationally, and the draft was worked up at a grass-roots level. For example, Wells spoke at a National Peace Council meeting in London on 12 March 1940, attended by some 3,600 people. He also published a best-selling book on the subject. There is circumstantial evidence that Roosevelt himself was impressed and influenced by the Wells' initiative (Burgers 1992: 464–6; Robertson 2000: 21–3).

Other individual activists played a key role as well. Here we re-encounter the ubiquitous Professor James Shotwell, who featured prominently in the establishment of the ILO in 1919. He was likewise to play a major part in the human-rights story as it unfolded in 1945. The American League of Nations Association had established a Commission to Study the Organization of the Peace, and this body was to be chaired by Shotwell. In this capacity, Shotwell began to proselytise assiduously on behalf of international instruments for human rights (Burgers 1992: 471). Unsurprisingly, given his position on the ILO, and his experience of its formal relationship with NGO groups, Shotwell also became a great advocate of introducing this structural innovation into other walks of international life: to do its job effectively, international society needed to formalize its relationship with world society. In the event, this was exactly the model that was to be adopted for ECOSOC (Korey 1998: 31–2). In a book published in 1945, but ahead of the San Francisco meeting, Shotwell pronounced that human rights were 'among the problems left untouched by the Dumbarton Oaks Conference' (Shotwell 1945: viii). He went on to urge the necessity for an international bill of rights, and for a commission on human rights in the new UN (Shotwell 1945: ix, 196).

How widespread was the public campaign on behalf of human rights at this time? There is powerful evidence indeed for the role of world society in the build-up to, and actual proceedings at, San Francisco. It is equally true that this evidence is profoundly ambivalent as to its exact significance for these momentous events.

The activities of individuals such as Wells and Shotwell were only the tip of a very large iceberg. Students of 'global civil society' have been impressed by San Francisco as one of those great occasions when NGO power was brought to bear on a major international negotiation. One claimed that San Francisco was attended by some 1,200 representatives of public and NGO bodies 'who together went on to contribute to the drafting process itself' (Keane 2003: 109). Certainly, there had been activity aplenty during the war, and at all levels. Any number of public organizations had come up with human rights charters during its course, the Movement for Federal Union (1940), the Catholic Association for International peace (1941), and the American Law Institute (1944), among others. Notably, Shotwell's Commission did likewise in 1943 (Sellars 2002: x).

This process intensified after Dumbarton Oaks, as the state department took the initiative to put the proposals out to public consultation, resulting in a 'vast mobilization of public opinion' in the United States (Eichelberger 1977: 250). At one level, this was little more than a hard sell, to ensure that the Charter was accepted by the United States, and so a large public information programme was inaugurated. Stettinius sold the programme in more grandiloquent terms. The future peace needed 'firm foundations of popular support', and only thus would it become 'truly a people's peace' (Walker 1965: 65). The apex of this system, as we will see, was to be the Consultants who would officially accompany the US delegation to the conference. This arrangement, it is claimed, gave the NGOs a 'position to bring pressure to bear on the United States delegation' (Eichelberger 1977: 267). But just who exactly was exercising the influence in this relationship?

Over a generation, there has developed a considerable folklore about the role of the Consultants at San Francisco, and some of the accounts have been endlessly recycled in a succession of histories. As a result, there is now a substantial self-serving mythology in place, and we need to cut through some of this to see the events in their proper perspective.

A number of groups had been monitoring closely the evolution of policy on human rights, at Dumbarton Oaks and afterwards. For example, the American Jewish Committee (AJC) had called for an international bill of rights on 15 December 1944, supported by 1,300 signatures, representing all faiths. The AJC also held a meeting with Roosevelt on 21 March 1945 and, it has been reported, Roosevelt urged them to go to San Francisco and 'work to get those human rights provisions into the Charter' (Korey 1998: 34–5). Shotwell, along with two leaders from the AJC, found themselves among the 42 groups chosen as Consultants to attend at San Francisco. From this baseline has developed the account that it was they who were responsible for putting the backbone into Stettinius and other policymakers, and it was their efforts that issued in

the transformation of the human rights aspects of the Charter. Only recently has this been challenged. It is central to Sellars' revisionist account, that the Consultants were being used by Washington officialdom to serve their wider political purposes, and that the administration employed 'the issue of human rights to bait the hook' (Sellars 2002: 1). So who was leading whom?

The idea to include a party of Consultants at the conference, Stettinius claimed, emerged directly out of the wide public discussion after Dumbarton Oaks (Korey 1998: 30). In today's parlance, this might be best understood as an attempt to generate public 'ownership' of the decisions that were taken by it. Bodies represented included the National Association of Manufacturers, the Chamber of Commerce, the AFL and CIO. Within the area of human rights, the principal players were to be James Shotwell, Dr O. Nolde (Federal Council of Churches), Clark Eichelberger (future United Nations Association), and Joseph Proskauer and Jacob Blaustein (both AJC) (Korey 1998: 30–3). Although the organizations to be so represented were restricted to forty-two, some of these acted as conduits for petitions from other bodies with similar concerns. If Shotwell stands as one element of continuity with the Versailles deliberations on the ILO, W. E. B. Du Bois epitomized another with the Versailles treatment of racial equality. Du Bois, co-founder of the NAACP, represented that body at the conference (Borgwardt 2005: 189). While no other state delegation incorporated NGO consultants after the fashion of the USA, the Soviet delegation successfully moved to allow the World Trade Union Federation to be represented at the conference (UNIO 1945, i: 58–60). In these various ways, San Francisco once again departed from the strict norms of a gathering of international society. Stettinius considered it an 'innovation in the conduct of international affairs' (Korey 1998: 30), but this ignored the precedent already established by the ILO.

The decisive intervention by the Consultants is deemed to have occurred during 1–2 May. According to the standard accounts, principal members among the Consultants were alarmed at the paucity of the human rights proposals and convened a meeting on 1 May. Issuing from this was a collective document that pressed, as a matter of urgency, for some specific additional amendments to the Charter; namely that human rights be identified as a purpose of the UN; that all members guarantee human rights, and that a human rights commission be mentioned by name (Korey 1998: 36). The memorandum included a blunt chastisement: 'it would come as a grievous shock if the constitutional framework of the Organization would fail to make adequate provision for the ultimate achievement of human rights and fundamental freedoms' (Eichelberger 1977: 271). In turn, this resulted in an emotional meeting between the Consultants and Stettinius on 2 May. So impressed was Stettinius by the strength of the convictions expressed, that the US Delegation



was persuaded to adopt the measures. In turn, the US Delegation promptly convinced the Soviet Union, Britain, and China to accept them.

This basic narrative has given rise to a deeply entrenched version of those events. 'The initiative to turn the UN charter into an instrument concerned with promoting respect for the human rights of individuals', it is proclaimed, 'came from the 42 US organizations invited to be present...' With respect to the decisive meeting on 2 May, 'the Secretary of State declared that he was convinced: and within a day, all the Big Four powers agreed' (Gaer 1996: 51–2). Korey provided the most detailed version: 'the historic breakthrough never would have taken place without the commitment, determination and pressure of a group of American non-governmental organizations. It was their initiative... which made the difference' (Korey 1998: 29). Similar accounts of these events are repeated, in essentially the same form, elsewhere (Humphrey 1984: 10–13; Burgers 1992: 476; Hoopes and Brinkley 1997: 191; Robertson 2000: 24).

On the face of it, there is primary documentation that corroborates some of these claims. We have the record of the meeting of the US Delegation in the late afternoon of 2 May, when Stettinius reported on his earlier meeting with the Consultants. Stettinius commented that the Consultants 'had shown themselves especially concerned about the expansion of the reference to human rights', and he read out their prepared memorandum. He had promised to take these matters up. Importantly, he went on to emphasize the belief of the Consultants that the United States should press the case, even if there was risk of failure. 'They thought that even if the United States Delegation failed in its attempt, the Delegation could put out a statement that it had tried and this would carry a great weight with American public opinion' (FRUS 1967, i: 532). The latter comment gives pause for reflection as to what might have been going on.

It points to a number of potential difficulties for the heroic version found in this conventional account. These become more troublesome when the minutes of the meeting are recounted in full. Stettinius advised that he wanted to go straight off and telephone the President to apprise him of developments. Picking up on the suggestion of the Consultants, he also agreed that the 'Delegation should make public its position'. Why was there this need to get it into the public realm? Senator Vandenberg concurred with the suggestion, and volunteered that 'it would make for better public relations all round' (FRUS 1967, i: 533). Was the priority to advance the diplomacy of human rights, or to win points for the Delegation in the public's esteem? Moreover, and even more damaging for the conventional wisdom, when Stettinius read out the demands made by the Consultants, Senator Vandenberg had also pointed out that 'two were already included in the United States proposals' (FRUS 1967, i: 532). At this point, we need to retrace some of the earlier story to uncover

the course of events. How decisive could the intervention of the Consultants have been if what they demanded was already a part of the US Delegation's formal proposals?

The contents of earlier US official documents cast even more doubt over the folklore of 1–2 May. The most revealing is a memorandum sent by Stettinius to President Truman on 19 April, fully two weeks ahead of the famous meetings on 2 May. Stettinius reported that the US Delegation 'is unanimously agreed' that it will propose a number of amendments to the Dumbarton Oaks proposals. Listed among them are an inclusion, under the Purposes of the Organization (Chapter 1), of a statement 'on the promotion of respect for human rights and fundamental freedoms'. Also proposed is an addition to the recommendatory powers of the General Assembly 'to foster observance of human rights and fundamental freedoms' (FRUS 1967, i: 353–4; Russell 1958: 612). There was little need to convince the delegation to take up positions on which it had already reached agreement.

It is only recently that Kirsten Sellars has used some of the available evidence to challenge the dominant myths about this aspect of the Charter's history. She points to even earlier state department papers, from 7 April 1945, which confirm that the essentials of the Consultants' demands were already embraced in draft amendments (Sellars 2002: 3–4). In this version, the administration was happy to hide behind the Consultants, and to allow them to take the credit for the initiatives. She goes further. It was members of the official delegation who prompted the Consultants into action. In this sense, the relationship was always top-down, even though the Consultants were not fully aware of this reality. 'They allowed themselves to be flattered by government', she records, 'and acquired an exaggerated sense of their own importance' (Sellars 2002: 10). The patrician British all along had been highly sceptical of Washington's gambit in introducing the Consultants into the world of diplomacy, but ended with some admiration for the skill of the US ploy. Gladwyn Jebb was to note that 'we had quite underestimated the apparent power of the American administration to delude these simple folk and to make them think that their objectives had been achieved' (Sellars 2002: 1). Thus is the heroic myth displaced by political conspiracy, and resort to devious bureaucratic practice.

There is a final dimension that emanates also from British sources, and reiterates the power-political origins of the Charter's new human rights provisions. We have noted already the eagerness on the part of Stettinius and Vandenberg to 'go public' on their proposed human rights programme. Stettinius was to do so again over the human rights commission. He stated in a press conference that the new commission would promptly undertake the preparation of a bill of rights. The UK delegation, on 19 May 1945, reported back to the foreign office the following intelligence:

The reason for Mr Stettinius sudden statement to the Press with regard to an International Bill of Rights will—according to information given me confidentially in the US Delegation—I fancy be found to be a desire to compensate, to certain Latin American governments, for countervailing concessions on the part of the latter with regard to regional autonomy in the Act of Chapultepec . . . Hence Stettinius's sop.

(Sellars 2002: 7–8)

This is of course only speculative, but potentially highly revealing. Its clear implication is that, to the extent that the United States encouraged an enlargement of human rights in the Charter, it was responding to the known wishes and preferences of the Latin American states which, as we have seen, for their own reasons had pushed hard for such amendments. Indeed, on this basis, the US initiatives were tantamount to a quid pro quo for the concessions that had been made by the Latin Americans over regional security organizations.

There is much in this to encourage a sensible degree of scepticism about prevailing accounts. On the documentary evidence, it appears that Sellars' position is essentially vindicated. However, before we jump from the frying pan of heroic NGO action into the fire of grubby state interest and manipulation, we need to pause and reflect on the totality of the evidence. There is certainly reason to be suspicious of the 'sudden conversion' thesis that is entailed by the romantic Consultants' tale. There is equally reason to be suspicious of the notion that human rights are in the Charter simply at the behest of the United States. However, neither is it the case that the United States suddenly discovered human rights in the spring of 1945, just so that it could reciprocate for the trade that the Latin Americans had delivered: as we have seen, this aspect had been deeply embedded in US planning since the outset of the war. It is equally plausible that, in wishing to conduct public diplomacy, Stettinius had other audiences in mind, apart from the states of Latin America. He might have been appealing to public opinion in the United States. He might equally have been appealing to a broadly based international opinion. Either way, there is a deeper question that needs to be asked. Why did he believe that these revelations would play well with public opinion, and what might this tell us about more fundamental transformations underway?

#### HUMAN RIGHTS AS WORLD SOCIETY CLAIM

In her own reflections on the famous meeting of 2 May, Borgwardt accepts key points in the Sellars' critique, but goes on to add that 'as with the 1941 Atlantic

Charter ... there is another, symbolic layer to the NGO meeting' (Borgwardt 2005: 190). What matters is not just what motivated the participants at the time, but the significance that was attached to it by others, both then and since. If we construe the events of May 1945 narrowly, then this case study results in rejection of the role of world society in assisting the formulation of the human rights provisions, and replaces it instead with a stereotypical account of manipulative power politics. In reality, both were present, and any balanced conclusion must give due respect to each. In the argument of Clark, previously cited, our task is to explore 'how normative authority interacts with motives of state and non-state actors' (Clark, A. M. 2001: 27). The task is not to reduce everything to either one or the other. It is precisely the interaction between the two that is the area of greater interest. On this basis, the argument can be advanced that world society was empowered on human rights to the degree that international society made 'political space' for it; and state actors were able to pursue their interests via human rights, *only* because there was a responsive world society constituency extending beyond international society and to which appeal could be made. What might be the evidence to support such a point of view?

In the restricted sense, relating to the role of the US Consultants, it is clearly the case that this NGO role was 'dependent' upon the 'political space' created for it by the US government. This was an innovative development, and was certainly viewed with suspicion and disdain by others, especially by the British. That the US government had its own motives for this inclusion goes without saying, and can be traced back to the haunting memory of treaty rejection in 1919.

That said, there is also a wider context to be borne in mind. We have traced some of the developing civil society interest in human rights that emerged during the course of the war. Whether this was actively stimulated by, or passively responded to, political elites in the wartime coalition is difficult to determine. Nonetheless, public declarations about the need to respect human rights were indeed made, and fed public expectations about the order to be created in the aftermath of war. To the extent that respect for human rights came to be the badge distinguishing the wartime allies from the axis powers, this took on an immensely powerful role for the post-war future. These declarations, as Borgwardt (2005) and others have shown, were drafted for all manner of instrumental, pragmatic, and short-term purposes. Regardless, they became an important part of the structure of post-war expectation. Having fed it, political leaders had also to be seen to respond to it: they were constrained by what they themselves had created.

It is in this deeper sense that the appeal for public support for the post-war settlement, especially in the United States, has to be understood. It is apparent

from many of the extant accounts that the administration was determined not to repeat the mistakes of 1919. The peace was to be prepared early and, just as importantly, was to be nested in a thick layer of domestic support, to avert a repetition of 1919. To this extent, the state department's campaign, including the participation of the Consultants, was little more than adept public relations. It was the mission of those consulted to sell the peace to others. All of this can be perfectly understood within the framework of sound political tactics.

There yet remains another side to this coin. If the intent was simply to sell the settlement, and the UN as a distinctive part of it, there was no need to give such a high profile to human rights, except on the calculation that doing so *would strike a responsive chord*. The tactic could be deployed (and was), but this is only part of the story. It could be deployed to good effect mainly because there was a powerful public constituency likely to be swayed by the nature of this appeal. This also has an international referent, in that the constituency extended beyond the purely domestic. Although the role of the Latin American states is widely remarked in the literature, very little is said about the Soviet role in the context of US policy. And yet if, in some degree, Wilson and Lenin engaged in a bidding war for progressive public opinion in 1919, it seems dangerous to discount the pressure that the Soviet 'conversion' to human rights must have placed upon US policy in 1945. To what extent then was US policy on the issue hostage to the alternative propaganda emerging from Moscow, and to what extent did this firm up the resolve to be seen to take the lead on appropriate human rights provisions in the Charter? Much of this remains uncertain, but the bottom line must surely be that many of the pragmatic and self-interested strategies pursued by various players make sense only on the assumption that their initiatives would hold extensive public appeal. If that was the backdrop, then it might be said that world society played a role in a much more structural sense than its participation in a handful of stage-managed meetings.

Even if this much is conceded, it still frames the argument in terms of world-society pressure, rather than world-society normative claim. The two, in any case, are not wholly separate: political pressure increases commensurately with the sense that a claim is a legitimate one to make. In what sense then is there evidence of this alternative dimension in the adoption of human rights norms in 1945? On this, it is extremely difficult to distinguish substance from rhetoric, but, as claimed, the rhetoric had a substance all of its own. There are two aspects of it that warrant close attention, and can be understood to be inter-related.

The first concerns the modalities by which the UN in general, and its activities in support of human rights specifically, would operate effectively. On

a number of occasions, Stettinius was adamant that, although an inter-state organization, its effectiveness was ultimately dependent upon 'the people'. Rhetorically, this was little more than a throwback to the language of Wilson, and his assertion of the critical role of world public opinion. Having conceded that the UN did not have juridical power to enforce human rights, Stettinius suggested instead that 'the ultimate sanction in securing wider observance of, and respect for, human rights lies in the aroused conscience of the peoples of the United Nations' (Stettinius 1946: 2). At one level, this may be read as little more than a specious attempt to exculpate the drafters from their failure to institute any other such means of enforcement. It also, however, had a deeper resonance. States could be held accountable, and pushed to action, ultimately only by such an 'aroused conscience'. The travails of international society demanded that human rights provisions be circumscribed within the general sovereignty safeguard in the Charter. Stettinius was pointing to an alternative conception wherein the aroused conscience of world society could still make its presence felt, despite those limitations. In his address to the First Plenary Session at San Francisco on 26 April, Stettinius had struck an identical note. The new organization, he insisted, could be effective only if it could command 'the allegiance of both the mind and the conscience of mankind', an appeal made from the very heart of international society to the social reaches well beyond (UNIO 1945, i: 125).

Rhetoric this might have been, but it was accompanied by a logical corollary, and this was the second dimension to human rights in 1945. If the institutions of international society depended ultimately upon the good offices of world society to support them, then international society had to pay it a 'social wage' in return. Could the individual human being be presented credibly as the lynchpin of the new inter-state order, but be treated with a deafening silence as to the rights to be enjoyed within that order? Such a contradiction would now become too apparent to carry any conviction. Accordingly, respect for human rights was the logical accompaniment to the role of the 'people' as the guardians of the system as a whole. This went beyond the specific mentions of human rights in the Charter. There was a deeper unifying logic related to this, and this was about the place of the individual in the international legal framework as a whole. It is common enough to see proclaimed the originality of the Charter in being 'the first treaty in world history to recognize universal human rights', or 'the first treaty to make human rights a matter for global concern' (Forsythe 2000: 36–7; Robertson 2000: 25–6). This much is true, whatever the limitations that were also entailed. But a more general principle was thereby being articulated, again regardless of the qualifications in practice. The Rapporteur for Commission II on economic and social matters, Dr Alfaro, expressed it in these terms:

The San Francisco Conference will go down in history as the first world congress where it is definitely recognized and established by the sovereign will of fifty nations that the individual, just as the state, is a subject of international law.

(UNIO 1945, i: 622)

Not only could world society operate through individuals to shape the principles of international society, and its institutions of order, but reciprocally international society now recognized the responsibility that it bore for the protection of the individual, and hence the validity of the claim that individual could make. In the longer term, this was to require a fundamental renegotiation of the relationship between international and world society.

### INTERNATIONAL LEGITIMACY AND HUMAN RIGHTS

Some key points need to be made by way of conclusion. This chapter has explored the detailed history of the insertion of some human rights provisions in the UN Charter. What is the justification for including this in a study of international legitimacy?

There are two ways in which the linkage needs to be made. It is the implicit assumption of this study that international society would not have been drawn to engage in the human rights business entirely of its own accord. This was always likely to be too risky a business for international society. To that extent, its adoption of this agenda is, *prima facie*, puzzling. To resolve this puzzle, we need to look outside international society, narrowly construed.

Nonetheless, it was to be into a pre-existing framework of international legitimacy that human rights were to be drawn. International society accommodated human rights, but largely on its own terms. These were twofold: first, what appeared not to be the justifiable business of international society had to be presented in a fashion that made it so; secondly, what was to be done in this area should be no more and no less than could be agreed by consensus. Human rights were not the new imperative to which all other international norms and procedures should succumb. Rather, human rights could be adopted by international society to the extent only that they accommodated the requirements of international consensus. The often-claimed 'revolutionary' quality of the Charter with regard to human rights needs to be understood clearly in that context.

The first was accomplished by extension of the logic that had already been applied to social justice in 1919. Social justice, it had been argued then, was a precondition of international peace and stability, and hence fell properly

under the purview of international society. This logic was insistently replicated in the drafting of the Charter, and was present from the outset. The first draft of Chapter IX at Dumbarton Oaks read as follows: 'With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should ... promote respect for human rights and fundamental freedoms' (Russell 1958: 424). The Charter not only was the first to use the language of human rights, but the first to link human rights directly to issues of peace and stability (Korey 1998: 29). This has been presented as an expedient American strategy to sell the project to Congress, as being less likely to draw the USA into future world conflicts (Forsythe 2000: 35). It seems more plausible that this was a perspective, equally expedient, designed to facilitate its adoption by a sceptical international society at large.

Secondly, human rights did not displace existing views of international legitimacy but, in important respects, simply grafted them onto what already existed. Although some states sought more ambitious obligations to be included in the Charter, the majority of states were cautious about this new agenda, and none more so than the United States itself. Even had it wished for more, it had to be mindful of Congressional resistance, and so all US proposals were careful of the need not to infringe the existing bounds of international society. The inclusion of the human rights provisions was in no way intended to overturn traditional conceptions of domestic jurisdiction, as the 'sovereignty' safeguard clauses made abundantly clear. Above all, there was no intention to subvert international society by appeal to any absolute and universal conception of human rights that had an existence separate from international society itself. Those rights for which international society would promote respect were those only that were 'first accepted by them ... by agreement' (Cassese 1992: 25). In this crucial respect, human rights would not trump prevailing conceptions of international legitimacy, but would need to be integrated into them. Having accommodated world society by acknowledgement of human rights, international society was not about to let world society prescribe the contents of the rights that were to be so observed, nor the manner of responding in any case where these were infringed. This was to be the new deal in 1945. It was clearly a compromise. It remained to be seen if the elements that gave rise to it could continue in equilibrium over the longer term.



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## Paris and Democracy, 1990

International society's post-Cold War engagement with the norm of democracy appears to be its most puzzling activity to date. The hallmark of the pluralist conception of international society is exactly its refusal to prescribe for internal political arrangements for the member states, preferring instead 'toleration' and 'co-existence' as between differing domestic systems (Mayall 2000; Keene 2002). The big question posed by developments after 1989, and symbolized by the Charter of Paris, is '[c]an the internal constitution of states be determined by international society?' (Mayall 2000: 62).

At the death knell of the Cold War, the 'Charter of Paris for a New Europe' was agreed at a summit of the Conference on Security and Cooperation in Europe (CSCE). It affirmed the intention of its signatories 'to build and strengthen democracy as the only system of government of our nations' (CSCE 1990: 3). This was a striking international declaration, no less so in that it proved much easier to make the affirmation than to bring its realization. In one memorable evocation, by a prominent US delegate to the CSCE process, 'a new public order for Europe' was being born (Buergethal 1990). While the declaration was palpably about the constitutional order to prevail *within* states, it was so momentous because it took the form of a statement agreed *among* states. If there were thereafter to be an onus upon individual states to comply with this injunction, there would likewise be an onus upon international society to hold them to account. Here was a principle of intra-state legitimacy that derived its potency exactly from its status as something agreed at the inter-state level.

It is frequently pointed out that the UN Charter makes no direct mention of democracy (Rich 2001: 20), and for obvious reasons there was little incentive to elevate it as a norm of international society during the course of the Cold War. By the early 1990s, a transformation was under way. 'Today', we are told, 'democracy constitutes the ideological core of world order' (Olesen 2005: 109). Principles of liberal democracy are now routinely transfused to the periphery through international society's post-Cold War peacebuilding missions in conflict zones (Paris 2002). It is not just that democracy is becoming more prevalent, but that it now enjoys a status as an authoritative principle of

international life. In another ringing endorsement, it has been pointed out that the 'norm of democracy has achieved striking universality in the current international system' (McFaul 2004–5: 148). In this sense, we can speak of an emerging norm of 'constitutional democracy as the only legitimate form of government' (Halperin 1993: 105). There is also thought to be evidence of 'the incorporation of democracy in international law' (Rich 2001: 21), and the Charter of Paris was a significant landmark in this process (Rich 2001: 27). To the extent that the United States was a principal architect of this outcome, this represented a paradox. How was the idea of democracy as authoritatively prescribed by international instruments to be reconciled with the noted preference that 'Americans tend not to see any source of democratic legitimacy higher than the constitutional democratic nation-state' (Fukuyama 2004: 148)? Was the United States enthroning an international doctrine that contradicted its own deeply held political beliefs, and, if so, why did it act in this way?

Formally, this summit meeting, held in Paris 19–21 November 1990, did not amount to a treaty of peace bringing an end to the Cold War. Symbolically, however, it was recognized at the time, and since, largely to have fulfilled such a function. During the meeting, a number of agreements were signed, including the CFE on reduction of conventional forces, and the Vienna document on Confidence and Security Building Measures. Additionally, the members of NATO and the Warsaw Pact issued a Joint Declaration, affirming that they were no longer adversaries. In so doing, they declared 'an end to East–West confrontation and the Cold War' (Heraclides 1993: 145). Finally, all the thirty-five states participating in CSCE signed the Charter of Paris. Here we have an archetypal instrument of international society, confirming the end of a period of international confrontation, just as at various peace congresses of the past. At the same time, it articulated a new international norm, stipulating the domestic political principles upon which the member states henceforth were to be founded. Why, and how, was it that such an international principle came to be espoused? Given the high regard in which international society had traditionally held the principle of domestic non-interference—and there might seem to be no greater infringement upon that than an international instrument imposing a uniform political structure for all—there is an obvious puzzle as to why international society should have been willing to sponsor any norm of this kind.

In an earlier work, the author suggested that the adoption of democracy as a fundamental norm of international society could be understood as part of the post-Cold War 'regulative' peace settlement. In that sense, it provided evidence '*both* for normative change *and* for the exercise of state power' (Clark, I. 2001: 223). Collective subscription to this principle was intended to help

foster the new peace by regulating 'not simply the international behaviour of states, but the very nature of the states themselves, as the best guarantee of their compliance with the norms of the new order' (Clark, I. 2001: 235). In the context of a discussion of international legitimacy, this amounted to a new criterion of rightful membership, 'couched in terms of conformity to democratic standards of good governance'. Accordingly, the concluding phase of the Cold War was to be associated with 'much greater prominence to the idea of democracy promotion as an international civic duty' (Clark 2005: 174–5). The question that needs to be examined more closely in this chapter is, even if this enactment gave rise to a new principle of international legitimacy, what were its normative sources?

Commentators are generally agreed on the major symbolic importance of the Paris summit. It has been described as providing 'the source of an overarching constitutional order that sets the standard to which all national legal and political institutions must conform' (Bobbitt 2002: 638). According to its prescriptions, domestic political arrangements would henceforth be 'linked to international legitimacy' (Cronin 2003: 129): they would no longer be left to the individual states themselves to determine. Compliance with the wishes of international society on the matter of implementing democratic practices now provided 'the international standard for regimes wishing to integrate into the global order' (Schmitz and Sell 1999: 36), and hence the Charter was overtly an 'attempt to make the quality of a state a precondition for its participation in European international society' (Flynn and Farrell 1999: 531). In this way, international society would directly monitor the 'rightful membership' of the individual states. Even more graphically, the norm of democracy agreed at Paris has been depicted in the following historical terms:

The resulting Charter of Paris for a New Europe was notable not only for officially ending the Cold War, but also for establishing new standards on internal governance and domestic politics. In particular, the Charter's declaration [on democracy] ... suggested a consensus around principles of state organization unseen since the Congress of Vienna in 1815.

(Cronin 2003: 128)

And yet it was precisely any comparison with Vienna that one of the key participants at the summit went to great lengths to deny. As far as French President, Francois Mitterand, was concerned, Paris was no reprise of the Vienna Congress. He described the Paris summit, instead, as the 'anti-Congress of Vienna', inasmuch as Vienna was an imposition on the people 'from above', whereas Paris stood for 'the exact antithesis of such an approach' (Bobbitt 2002: 637). So exactly what hand did the 'people' have in this particular

settlement, and what might be the theoretical significance of this in terms of our understanding of the origins of this new international norm?

The Paris norms have already attracted some degree of theoretical attention. This has been especially so with regard to their impact as new principles of international legitimacy, and as facilitators of change to other international norms, particularly with regard to international intervention. That such norms have impacted upon the domestic course of politics is widely recognized and accepted (Schmitz and Sell 1999: 25). Equally, it is acknowledged that the adoption of new international norms in the area of democracy has enabled different forms of international action. 'Indeed, much of the international response to Europe's new security situation', it is contended, 'arguably could not have been undertaken... without the anchoring set of norms contained in the Charter of Paris' (Flynn and Farrell 1999: 509).

Instrumentally, state adoption of the new norm of democracy 'enabled' forms of intervention that would otherwise have been unacceptable (Flynn and Farrell 1999: 512). Their 'commitment to democracy' made possible new forms of political action, because it 'established the grounds on which states could agree to act and provided a legitimate way to modify the content of other norms' (Flynn and Farrell 1999: 523).

The emphasis in this account is upon 'state usage of norms', and upon the evidence 'of choice by the international community' (Flynn and Farrell 1999: 512). This tells us a great deal that is of interest in understanding the motives of states in espousing new norms, and about the consequences of their doing so. What it does not address directly is the possibility that the source of these norms could be found outside the framework of international society. It is this that is the main object of the following enquiry.

This prospect is raised elsewhere. In a contribution to 'issue networks' and 'advocacy networks', one author distinguishes a 'democratic issue network' which is deemed to be 'especially instrumental in international norm building'. This 'transnational democratic issue network', it is suggested, has the capacity to 'transform international society' (Scott 2002: 212). In some ways, this might be thought to be a straightforward extension of the role of such transnational groups in promoting related human rights norms (Youngs 2001: 6). Accordingly, against exclusively state initiative, there is a rival interpretation that active promotion of democracy has been more widely based, and is a 'norm embraced by other states, transnational organizations, and international networks' (McFaul 2004-5: 148). The fact that international society has adopted this particular norm, and had its own reasons for doing so, does not by itself lead to the conclusion that the norm's authorship belongs exclusively within international society.

In short, what we need to examine closely is not simply the consequences of the adoption of democracy as an international norm, but rather whether

that new norm was initially promoted from outside international society. To the extent that this was the case, how and why did international society come to adopt it? In order to address these questions, we need some outline of the events leading up to the Paris summit in November 1990.

## THE HISTORICAL BACKGROUND

The Paris summit resulted from the unique historical conjuncture between the Helsinki process, dating back to 1973–5, and the flurry of events that marked the end of the Cold War. The Helsinki meetings of the mid-1970s produced a Final Act that sanctified the then existing borders of Europe, but gave rise also to various baskets of monitoring activities, including in the humanitarian and human rights areas. There is general agreement that these were to become more important than was perhaps originally intended or envisaged, and amounted to a limited international sanction for raising the status of the individual within an inter-state setting (Bloed and van Dijk 1991; Brett 1992: 14; Heraclides 1993: 2, 38–9). It was to be the Helsinki Final Act that spawned the ongoing CSCE ‘process’, and provided a forum that was comprehensive in its European membership, while also including the two superpowers. In turn, it was precisely these features that made it seem to the Soviet leadership the most attractive forum for managing the disengagement at the end of the Cold War. A CSCE summit was thus strongly supported by Soviet President Gorbachev, in part because of its existing commitment to post-war European borders, but also on account of its inclusive membership (Brett 1992: 8; Heraclides 1993: 136; Wallander and Prokop 1993: 93). The Paris summit was the culmination of this Soviet initiative.

During the course of 1990, Western leaders had remained wary of the more ambitious proposals being advanced for the future role of the CSCE in the new European security ‘architecture’. While they recognized the attractions of its comprehensive membership, there was absolutely no wish on the part of key Western leaders to encourage any sense that it might come to usurp the role of NATO in Europe’s defence. Any such suggestion met with responses that were ‘polite but sceptical’ (Hyde-Price 1998: 26). In this context, it might then appear that the increased emphasis that came to be placed on the human dimension of CSCE activities, especially with regard to democracy, was doubly intelligible both as a tactic to promote CSCE and give it a new role, while doing so in a direction that also kept it safely apart from NATO.

This emphasis upon democracy wound up, apparently as the Cold War began to wind down. Speaking in Mainz in the FRG, on 31 May 1989, President Bush had stressed that the ‘momentum for freedom . . . comes from

a single powerful idea—democracy’ (Rotfeld and Stutzle 1991: 93). This was followed up by Secretary of State, James Baker, speaking in Berlin on 11 December 1989, when he renewed the call for CSCE to set standards for the conduct of free elections, and to establish ‘new Europe-wide rules for democratic governance’ (Zelikow and Rice 1995: 143). British Prime Minister, Margaret Thatcher, reverted to the same theme at the Konigswinter Conference on 29 March 1990. ‘I am going to set out tonight’, she said with reference to the forthcoming Paris summit, ‘some proposals which could make that summit a major step towards the creation of a great alliance for democracy, which would stretch from the Atlantic to the Urals and beyond’ (Rotfeld and Stutzle 1991: 111–12). On 4 May 1990, President Bush told an audience at Oklahoma State University of the importance of CSCE, and especially of its task in setting ‘new guidelines for building free societies’, and ‘standards for free elections’ (Rotfeld and Stutzle 1991: 99).

In due course, the terminal phase of the Cold War witnessed the adoption of democracy as the guiding principle for various other policies. One manifestation was in the form of the exercise of political conditionality, whereby recipient states—once the target of economic conditionality by international financial institutions—now faced also political prerequisites to qualify for aid from such bodies as the European Union (Youngs 2001; Pridham 1999). In its more overt form, this expressed itself as a policy of active democracy promotion. Both President Bush and his successor, Bill Clinton, made recurrent speeches that placed the expansion of the zone of democracy at the heart of their respective foreign policies (Holsti 2000: 151; Cranenburgh 1999). Strikingly, US leaders prioritised this theme, despite low levels of domestic support for any such initiatives (Holsti 2000: 158–9).

This strand became ever more conspicuous within the activities of the CSCE, finally issuing in the Paris Charter. The sequence of events leading to this outcome occurred in stages at Bonn (March–April 1990) and at Copenhagen, as expressed in its Document of 29 June 1990 (Bloed 1991). The Bonn agreements made statements in support of multiparty democracy, free elections, and the rule of law (Flynn and Farrell 1999: 515). However, some very major and innovative undertakings were included in the Copenhagen document (Heraclides 1993: 128; Flynn and Farrell 1999: 516). These were described at the time by key participants in the US delegation as an ‘extraordinary step forward’, and as the ‘first pan-European charter to specify what the nature of government should be in the Post-Communist Europe of tomorrow’ (USCSCE 1990: 37, 20). According to the Chair of the US Commission on Security and Cooperation in Europe, Senator DeConcini, ‘Copenhagen achieved in four short weeks what we had been pressing for in the Helsinki process for the past 15 years’ (USCSCE 1990: 3). At the heart of the document lay the following agreements among the participants:

They recognise that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms... They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law.

(Rotfeld and Stutzle 1991: 206)

To this end, the signatories understood also the need to promote 'democratic values' within societies, and duly acknowledged that this could be undertaken 'by direct contacts and cooperation between individuals, groups and organizations' (Rotfeld and Stutzle 1991: 213). Here we have a clear public statement to the effect that the task of democratic construction required resources in addition to those of state instrumentalities.

The agreed statement went well beyond general principle, to provide a quite detailed blueprint of the elements deemed necessary for a functioning democracy. Its various provisions covered rights to free elections, at reasonable intervals; to representative government, with elections to at least one chamber; the separation of state and political parties; universal and equal suffrage; secret ballot or equivalent; and the right to form political parties, and to campaign freely. The Copenhagen Document, it has been observed, 'represents the essence of Western democratic practice' (Dean 1994: 210), and it was its agenda that was to carry forward to the Paris summit. Speaking at the opening of the Copenhagen meeting on 6 June, US Secretary of State James Baker spoke of the need for CSCE to 'strengthen political legitimacy', and to this end he sought 'adoption in Copenhagen and confirmation at the Summit' of the principles of free elections and political pluralism (USCSCE 1990: 132).

Encouragement of this ideal was simultaneously moved forward on a broad institutional front, extending outside CSCE. The European Council declared its support for the key role of CSCE, 'encompassing notably the development of pluralist democracy', at its meetings in Dublin on 28 April and 25 April–6 June 1990. Similarly, the summit meeting of the North Atlantic Council pledged the support of NATO in its London Declaration of July 1990 to CSCE becoming more prominent, and endorsed a role for that body in promoting 'CSCE principles on the rights to free and fair elections' (Rotfeld and Stutzle 1991: 159–60, 152).

The process culminated at the Paris summit in November, although President Bush had earlier made his attendance conditional upon conclusion of the CFE treaty, in order to hasten its completion (Beschloss and Talbott (1993: 269). Paris raised the principles, already outlined at Copenhagen, to a new level of symbolic significance. Earlier CSCE meetings had produced Documents, but at Paris it was decided to issue a Charter instead. Thereby, it has been suggested, there was a conscious elevation of those principles by making



them 'the subject of solemn state commitments' (Flynn and Farrell 1999: 516). Similarly, the Two-plus-Four treaty on German unification, already signed in September, was given the formal blessing of all Europe (Bobbitt 2002: 636). Included in measures for its own reorganization, CSCE created an Office for Free Elections, to be based in Warsaw. This was later renamed the Office for Democratic Institutions and Human Rights (Bloed 1993: 15). It was agreed also to hold in Oslo in November 1991 a Seminar for Experts on Democratic Institutions (CSCE 1990: 22). That seminar, it has been noted, marked a turning point away from standard-setting to implementation: it was designed to assist the new democracies in Central and Eastern Europe and, as such, marked a shift 'towards practical cooperation in the implementation of the CSCE norms which had previously been agreed upon' (Bloed 1993: 99).

As noted, it was to be the participating states that entered into the commitments entailed at Paris. Principal among these was the undertaking that 'our States will cooperate and support each other with the aim of making democratic gains irreversible' (CSCE 1990: 4). This reinforces the impression that the espousal of democracy was a largely 'top-down' instrument of inter-state diplomacy. However, the Paris Charter included also the following striking statement, and one that remains relatively neglected:

We recall the major role that non-governmental organizations, religious and other groups and individuals have played in the achievement of the objectives of the CSCE and will further facilitate their activities for the implementation of the CSCE commitments by the participating States. These organizations, groups and individuals must be involved in an appropriate way in the activities and new structures of the CSCE in order to fulfil their important tasks.

(CSCE 1990: 12)

In this way, the Paris Charter both acknowledged the important contribution of the non-state sector in the past, and also opened the door formally to such a role for world society in the future. In this admission, we encounter a clear suggestion that the norm of universal democracy was not exclusively of international society's making, but had also been promoted from outside.

This agenda was reverted to at the next CSCE meeting held in Moscow at the end of 1991. Its future was for some time in doubt as President Gorbachev succumbed momentarily to the attempted coup in August, an event that left its mark on those conference statements, issued at Moscow, condemning 'unreservedly forces which seek to take power from a representative government' (CSCE 1991: 36). However, the main thrust of the Moscow Document was to restate the direct interest that international society had in the development of democracy within participant states. It was reiterated that this remained a

matter of 'international concern'. In its most forthright and resounding such statement to date, the participants at Moscow 'categorically and irrevocably declare that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the state concerned' (CSCE 1991: 29; Bloed 1993: 97).

Once again, be it noted, the crucial role to be played by NGOs and other groups was stressed. Specific measures were agreed further to facilitate this role by 'strengthening modalities for contacts and exchanges of views between NGOs and relevant national authorities', and to enable visits by NGOs 'to observe human dimension conditions' (CSCE 1991: 50). As CSCE sought to 'institutionalise' itself for the post-Cold War world, it simultaneously sought to formalize a role for world society within its own apparatus. The question that now needs to be addressed is why international society had come to accept such a norm in the first place.

#### DEMOCRACY AS WORLD SOCIETY ACTION

There are no historical debates, as such, directly about this issue that need to be reviewed. There are, however, two more general debates that are adjacent to it, and have immediate implications for the answer to our question. These can be dealt with briefly.

The first is the substantial literature upon the course and causes of democratisation. This had been stimulated by the need to give some kind of explanation for its apparent 'waves', and particularly for the so-called third wave extending from the 1970s through the 1990s (Huntington 1991). The resulting debate has been multi-faceted, and can be structured in various ways. Part of it concerns the relative weight to be attached in processes of democratisation to indigenous social and political factors, as opposed to broadly 'international' influences, such as the force of example, and its demonstration effect on others. The category of the 'international' can, in turn, be broken down into the state domain, on the one hand, and the largely transnational or non-state, on the other (Youngs 2001: 5). Collectively, the variety of outside forces at work can, in turn, be categorized into 'bottom-up' sources of popular political change, as opposed to 'top-down' forms of elite action (Schmitz and Sell 1999: 37). Such a conceptualisation of the actual processes driving democratization is not the immediate concern of this study. It does, however, readily map onto a discussion of the normative origins of the new international preference for democracy. In short, was the wish for democracy

promoted by political leaders, from the top, or was it in some inchoate way 'demanded' by civil society groups, from the bottom?

Secondly, and much more broadly, there is considerable resonance between the present object of study, and the wider debate about the reasons for the end of the Cold War. This also has many facets to it, many of little immediate relevance to the point of this discussion. However, central to these debates is yet another manifestation of the axis of contention as to whether the Cold War was terminated by 'top-down', or 'bottom-up', forms of political and social action. How we formulate our understanding of the demise of the Cold War has obvious repercussions for how we describe the prominence accorded to the new norm of democracy. Was the Cold War ended by inter-state agreement at the highest levels, and should the regulative peace that was imposed be understood as a 'top-down' creation of international society? Alternatively, did elites respond to the 'demand pull' of widespread transnational social movements, so eroding the Cold War from the bottom-up? Within the frame of this latter version, it becomes equally plausible to suggest that the norm of democracy was encouraged upon international society by direct world-society action.

These are highly complex issues to unravel, and it is unlikely that the truth is to be located at either extreme. At the level of the Cold War as a whole, this issue has been the subject of heated engagement since the late 1980s, and there is no apparent resolution as yet in sight. Competing interpretations had already become highly politicized during the 1980s, as they had a direct bearing on the disputed efficacy of various social movements, such as that for nuclear disarmament. The proponents of a new version of *détente* in the late 1980s, as opposed to the limited inter-state *détente* of the 1970s, appealed exactly to an image of 'détente from below' that rested upon the activities of social movements, and worked towards 'an all-European civil society' (Kaldor 1989: 15). This process, it was maintained, could become 'semi-autonomous' of state tutelage, with the result that 'social organizations may develop their own subgovernmental East–West relations' (Jahn 1989). The Helsinki process itself was understood to lie at the very centre of this dynamic, insofar as it was the states that had initially created the political space, subsequently exploited by non-state actors for different ends (Bobbitt 2002: 622). In terms of this conception of the end of the Cold War, the dramatic events in Eastern Europe in 1989 amounted to a 'victory for the peace movement, the women's movement, and nonviolence' (Galtung 1995: 105).

Others defend a more conventional top-down version. Such a perspective is deeply embedded in those many interpretations that emphasize how the Cold War was won or lost by powerful leaders. The most popular variant was, of course, that it had been ended by the decisive deployment of strategic

and technological power by the United States during the Reagan presidency, such as through the Strategic Defense Initiative. On the other hand, it had been lost by Gorbachev who sought to reform the communist system, but succeeded only in unleashing uncontrollable forces for change that caused the Soviet economy to implode. The notion of democracy as an exaction of the winning powers in the aftermath of their Cold-War victory sits comfortably within such an interpretative framework.

As always, there are accounts that cleave to the middle of the spectrum, recognizing both a demand-pull at the popular level, and the supply-push of state agency. One example is provided by the seemingly head-long rush into German unification during 1990. There can be no gainsaying the 'popular' dynamic that was present in these events, eventually compelling the calculation that 'if we don't take the DM to the people, the people will come to the DM' (Garton Ash 1994: 347). The impetus, in this case, came from the people. The political initiative was nonetheless seized by Chancellor Helmut Kohl, and backed by President Bush, against the reservations emanating from Britain and France. 'Like the storming of the Bastille . . . the story of Germany's unification will always begin with common people', write two well-placed observers, 'but it was Helmut Kohl who gave expression to that desperation and set the course toward a united Germany' (Zelikow and Rice 1995: 366–7).

A second example comes from the origins of the 'new thinking' within the Soviet Union. Clearly, the impact of this depended upon its incorporation into decisive state agency, as Gorbachev implemented his new policies. Some, however, have suggested the prior impact of transnational processes that helped to establish new ideas into Soviet thinking in the first place. This is the main contention of Evangelista's work. Transnational peace movements were, somewhat surprisingly, able to gain purchase upon Soviet policy through the promotion of their ideas. 'The Soviet members of transnational networks', he concludes, 'sometimes sought to influence their government's policy by appealing to internationally accepted norms that resonated within Soviet society' (Evangelista 1999: 7). It was those transnational networks that conveyed the norms, allowing Soviet reformers to appeal to them to overcome domestic opposition (Evangelista 1999: 387). Such analyses do not discount state agency by any means, but they do, at the same time, admit the important role of actors extending beyond the state sphere.

The end of the Cold War thus represents a complex case, and we need to be clear about the precise form that world-society action was to take. Unlike in 1815 or 1899, such world-society action was exercised neither through petitions, nor through delegations in attendance at the peace conference. Instead, it made its influence felt through direct action on the streets, and by those other manifestations of the velvet revolutions. When it comes to

designating the origins of the democratic impulse at the end of the Cold War, this makes the analysis doubly difficult. Popular action, often transnational in form, suffused the terminal stages of the Cold War, and more obviously so than at the ending of previous wars. It remains that much more difficult to quantify its impact on events, and to discern where the push from the top shades into the pull from the bottom. How are we to tell if the democratic imperative was a norm born of inter-state strategic calculations, as against an ideal promoted by the gradually mounting transnational agitation of the preceding generation? This puzzle will be resolved by suggesting that it was both: there was much state agency demonstrated in taking the initiative to highlight the norm; this, in turn, was made possible by the 'structure' for political action that world society had already created.

It is not difficult to trace the rhetoric in support of democracy to various Western leaders during the critical phase of the end of the Cold War, and during its immediate aftermath. Typically, James Baker, in an address on 3 September 1990, emphasized the need for the US to support democracy in the former Soviet bloc, and pointed to the essential role of the CSCE in monitoring free elections (Bobbitt 2002: 635). The European Union itself bought into the same agenda, when democracy promotion was implicitly incorporated into the Maastricht Treaty (Youngs 2001: 30).

However, democracy was supported equally by leaders in Eastern Europe, who rallied to it as the unifying norm of the new Europe (Flynn and Farrell 1999: 524). Soviet Foreign Minister Shevardnadze was to write an article in *Izvestia* on 30 May 1990 in which he endorsed the principle. He vouchsafed the great value of CSCE's operating procedure of consensus, and, by implication appealed to it, in acknowledging that 'it is obvious that the leaders of the CSCE States will speak out firmly in support of the principles of democracy, free elections, political pluralism, and the multiparty system...' (Rotfeld and Stutzle 1991:107-8). In saying this, he located himself within that consensus, rather than presenting the Soviet Union as a victim of it. That said, we do have to remember that the Copenhagen and Paris documents were highly political, and subject to intensive negotiation. Members of the US delegation confessed that they were pleasantly surprised at the outcome. This is evident in remarks made by Professor Buergethal during Hearings before the US Commission on Security and Cooperation in Europe:

The Copenhagen Document is not perfect... Not everything we would have liked to see in this document is in it. But we got a lot, and we certainly got more than most of us would have thought possible even a year ago. That is certainly true with regard to free elections and democratic pluralism.

(USCSCE 1990: 49)

Whoever else might have been pressing for this particular agenda, the precise wording as agreed remained subject to inter-state bargaining and compromise.

Such a statist perspective is further reinforced by a review of the strategic context in which the objective of universalizing democracy was set forth. Four factors seem pertinent to this discussion. First, there was in the post-Cold War situation less obviously any incentive to support authoritarian regimes, simply because of their strategic location in the rivalry between the two blocs (Youngs 2001: 10–11). Hitherto, the Cold War had constrained democratization, by providing strategic incentives for even the ideological champions of democracy to ignore it in practice in their grooming of client states. Secondly, it was now less risky for the West to pursue encouragement of democracy, as it could no longer be threatened by retaliatory interventions from the rival superpower.

During the Cold War, the cause of democratization in Eastern Europe had, of course, been largely sacrificed to the imperatives of Cold-War stability, as the non-responses to Soviet military interventions in 1956 and 1968 had made abundantly clear. Thirdly, the powerful advocacy of the idea of the democratic peace presented an additional security incentive for democracy promotion, as this might provide the best guarantee of peace and security, in the altered and highly fluid circumstances of the time. This theme was prominent in Fukuyama's argument. 'The peaceful behavior of democracies further suggests that the United States and other democracies', he noted, 'have a long-term interest in preserving the sphere of democracy in the world, and in expanding it where possible and prudent' (Fukuyama 1992: 280). Accordingly, the advocates of the democratic peace began actively to encourage efforts to export democratic institutions (Schraeder 2002). Their efforts have not been wasted on a number of state leaders. Finally, it could be as readily argued that the emerging predominance of democratic values was simply a reflection of the new power realities, since it was the newly found American dominance that underwrote the aspirant value system. 'The rise of American hegemony', as one commentator has expressed it, 'has helped bring about the global democratic revolution' (Kagan 2000: 100).

In each of these suggestions, there is a persuasive case that it was state interest, or state agency, that underpinned the new international norm of democracy. The underlying assumption was that any democratic revolution could not be relied upon to occur spontaneously. In the words of Mrs Thatcher, addressing an audience in Aspen on 5 August 1990, 'it will take the united efforts of the West to shape a new global community, based on democracy ...' (Rotfeld and Stutzle 1991: 113). Even allowing for the 'idea of a universal and directional history leading up to liberal democracy' (Fukuyama 1992: 338), the

principal onus rested with state leaders to give history a push if it threatened to get bogged down.

Empirically, however, the democracy promotion efforts at the end of the Cold War were by no means confined to the realm of state agency alone (Cox, Ikenberry, and Inoguchi 2000; Youngs 2004). Once again, we confront the complexity of the notion of 'authorship' of an idea. There is no gainsaying that the United States was a particularly active proponent of the ideal of democracy at the end of the Cold War. However, this claim is not inconsistent with the suggestion that world society was equally instrumental in facilitating its adoption at the international level, inasmuch as state strategies tapped into deep layers of social activism beyond their control:

The global democratic structure created in the wake of the Cold War was largely an outcome of decisions made by the victors of the Cold War, the United States, and to a lesser extent, Western Europe. The unrivalled and undisputed military and economic power of the United States allowed it to socialise weaker countries into the structure ... Yet they do not ... fully control it. They are locked in constant conflict with social movements and other social actors over the definition of democratic norms and politics.

(Olesen 2005: 117–18)

We can accept state agency, but this does not fully explain normative preferences and outcomes. 'Although the norm of democracy promotion may have originally risen in prominence because of US hegemony', we are aptly reminded, 'today the norm exhibits influence beyond and autonomy from the reach of US power' (McFaul 2004–5: 159).

Various studies of this topic consistently document the role of transnational civil society organizations in this endeavour. It may well be true that democracy had become 'globalized', insofar as it was now 'intimately tied up with pressures generated at the international level and the agency exercised by a number of transnationally active groups and organizations' (Grugel 1999b: 19). Proponents speak of the workings of a 'loose democracy promotion network' (Scott 2002: 193), and of the importance of 'non-state actors' in this context (Grugel 1999b: 12).

This was not only an already existing feature of the situation, but was also to be actively encouraged by international instruments, as we have already noted. NGOs were assisted by various arrangements that would give them full access to conference delegates at CSCE conferences, as set out in the Annex to the Copenhagen Document of June 1990 (Rotfeld and Stutzle 1991: 217). NGOs had, in any case, been pleased about their treatment at the Copenhagen conference, and noted that it had been a great improvement on earlier occasions, when they had been 'looked upon as unwelcome guests'.

The head of the US delegation, Ambassador Max Kampelman, pointed to the 'unprecedented degree of access and openness' for NGOs at Copenhagen (USCSCE 1990: 39). A group representing a free Lithuania accordingly expressed the hope that 'at the summit meeting in Paris next fall, France will follow the example set by Denmark regarding NGOs' (USCSCE 1990: 104).

It is interesting to note that, as had become common practice with other major inter-governmental meetings, NGOs had organized a parallel NGO conference to coincide with the Copenhagen meeting, and planned another to coincide with the CSCE meeting in Moscow (USCSCE 1990: 124ff). A key point of interest about the role of advocacy groups is the extent to which they come to be incorporated officially in government negotiation delegations (Price 2003: 588). At Copenhagen, the relationship assuredly fell some way short of this. Nonetheless, it was recalled that some delegations had operated in close tandem with their national NGOs, and Canada and the Soviet Union were particularly noted in this regard (USCSCE 1990: 129). There was generally, as is confirmed in Hearings before the US Commission on Security and Cooperation in Europe, a great deal of interaction between official delegations and NGO groups. Jane Fisher of the US delegation provided interesting testimony to this effect:

Those of us who have had the opportunity to attend some of the meetings sponsored by the parallel conference have been reminded once again of the vitality and fresh perspective non-governmental organizations can contribute to the CSCE process. Many delegations such as ours have made a habit of meeting NGO representatives before, during and after CSCE meetings. We consider ourselves accountable to them, as we are to the American people whom they represent. They have given us some of our best ideas concerning existing and future CSCE commitments—and they hold us to high standards.

(USCSCE 1990: 176)

Clearly, in an atmosphere of such regular interchange of ideas, it is virtually impossible to establish the true provenance of particular ideas and proposals.

However, the point of this analysis is not to establish that transnational groups have been actively involved in the *policies* to encourage democracy since the end of the Cold War. That they have been so is incontrovertible (Grugel 1999b). Rather, the point of interest for this discussion is the extent to which NGO action contributed to the formal acceptance by international society of the *norm* of democracy at the Cold War's end. There are two stages in this argument required to demonstrate that they did so. First, even if it was state agents at the highest levels who seemingly took the initiative in



promoting the norm, why did they think the norm appropriate? Secondly, did the pressure for adoption of this norm arise simply from world-society political activism, or did its adoption amount to a more deep-seated recognition of a rightful claim? We will be better able to respond to these questions when the evidence for the successful registering of such a world-society claim has been considered.

### DEMOCRACY AS WORLD SOCIETY CLAIM

As has already been demonstrated, the initiative for adoption of democracy as a norm of the new European international society came increasingly from Western political leaders, and institutions, through the period 1989–90, as the Cold War moved towards its final *dénouement*. That there were interested motives on the part of those participants to adopt such a platform is scarcely in any doubt. However, before we dismiss influences from beyond the confines of international society, we must ask why state leaders thought such a programme to be appropriate. The answer surely lies in the putative appeal it was felt to hold within the broad spectrum of European civil society. This responded to both elite and popular preferences throughout much of the new Europe. Hence, even if espoused *for* strategic reasons, the norm was promoted *because* it was believed to be politically resonant on both sides of the former Iron Curtain. Any argument for the instrumental uses of the norm assumes its appeal within a broad spectrum of world society as a necessary part of its potential efficacy.

There is therefore good reason to believe that the norm of democracy was adopted, not only because it served convenient strategic purposes, but also because it was beginning to be recognized as an increasingly legitimate claim. The evidence for this suggestion is to be found in developments in thinking about international law, and especially with regard to a legal entitlement to democratic access. I have previously discussed this development as an aspect of international society's tutelage of the criteria of rightful membership, and suggested that this was a conspicuous development of the rules of rightful membership in a democratic direction (Clark 2005: 181). This rests on the argument developed by a number of writers, but in particular by Thomas Franck. 'Both textually and in practice', he contended, 'the international system is moving towards a clearly defined democratic entitlement, with national governance validated by international standards and systematic monitoring of compliance' (Franck 1995: 139). The argument has been elaborated elsewhere:

When the will of the people is the basis of the authority of government, regimes that thwart the will of the people lack legitimacy. The participatory rights provisions of the human rights conventions have succeeded in extending this notion of legitimacy from the domestic to the international sphere... [I]f political participation is to have any meaning as an internationally enforceable right, the community of states must be empowered to prescribe standards detailing how participation is to occur and to insist that parties to the major treaties adopt these standards as law.

(G. Fox, quoted in Roth 2000: 3)

In his initial formulation of this argument, Thomas Franck suggested that democracy was on its way 'to becoming a global entitlement', to be 'promoted and protected' internationally. He cited textual validation for this claim in various pronouncements by the UN General Assembly, as well as in regional organizations, such as OAS and CSCE (Franck 1992: 46). He described the Paris Charter, in this context, as 'deliberately norm creating', and building on the assumption that 'electoral democracy is owed not only by each government to its own people, but also by each CSCE state to all the others' (Franck 1992: 67–8). This created a norm that applied, not simply between people and government, but between governments and international society, insofar as 'the community of states is empowered to compose and apply codes governing the comportment of governments toward their own citizens' (Franck 1992: 78).

Franck noted the articulation of such a norm within the regional setting, but was unprepared to maintain that it applied in the global context (Franck 1992: 78). In contrast, writing subsequently of the Vienna Declaration of 1993, Buergenthal was adamant that this amounted to precisely such an extension:

Whereas [the Copenhagen] document laid the foundation for the establishment of a democratic European public order, the Vienna Declaration can be read to have done the same for the world as a whole... [T]he absence of democracy in a state is today in itself a violation of the human rights of its population and... the international community has the right for that very reason to concern itself with efforts designed to remove obstacles to its democratisation.

(Buergenthal 1997: 714–15)

What we see described here is the transmutation of a principle of domestic legitimacy into the basis of a principle of international legitimacy: it is precisely because of the individual's right to democracy that international society has a duty to prescribe and monitor its implementation. The extent to which it does so will become a measure of its own adherence to international norms. Interestingly, in tracing the rise of this aspect of international legitimacy, Franck documents it in both the texts and the practices of various universal and regional international organizations, but 'supplemented by that

of a significant number of non-governmental organizations' Franck 1992: 90). This implicitly acknowledges both the role of world society in promoting the norm, and international society's recognition of the claim that has been made upon it.

#### INTERNATIONAL LEGITIMACY AND DEMOCRACY

Once again, in espousing a norm of universal democracy in the constitution of states, international society has been venturing into a terrain that was partly alien, and potentially hostile, to it. To the extent that international society has been considered practical, rather than purposive, its imposition of a universal form of domestic political organization may be thought well beyond its remit. Nonetheless, in any number of formal statements, international society is now largely committed to a general international norm that encourages, where it does not positively require, democratic forms of state.

Unsurprisingly, it has sweetened this bitter pill by accommodating the new norm to the more traditional preferences of international society. It can therefore serve as a good example of the 'finding that such efforts are more likely to be successful to the extent they can be grafted on to previously accepted norms' (Price 2003: 584). This can be illustrated in two areas. The first is a demonstration of the tangible interest that international society itself now has in such promotion. While the advocacy of democracy may be rooted in an increasingly accepted claim to an entitlement to it, it remains the case that international society has explained its acceptance of an international duty to monitor democracy as arising from the basic need for peace and security. In Franck's words, 'the right to democracy can readily be shown to be an important subsidiary of the community's most important norm: the right to peace' (Franck 1992: 87). Accordingly, it follows that 'the legitimacy of the democratic entitlement is augmented by its hierarchic relation to the preemptory norm of global peaceability' (Franck 1992: 89). To this extent, democracy is an adjunct norm, contributing to the attainment of the other. In this way, the basic thesis of the democratic peace has been internalized, and it is accepted that the extension of the zone of democracy will contribute to this goal (Clark, I. 2001: 225). The Copenhagen Document had drawn attention to this broader international goal in encouraging democracy. The Charter of Paris did not resist the temptation explicitly to restate this important connection: 'Our relations will rest on our common adherence to democratic values and to human rights and fundamental freedoms. We are convinced that in order to strengthen peace and security among our States, the advancement

of democracy and respect for and effective exercise of human rights, are indispensable' (CSCE 1990: 5).

Secondly, it was to be that much easier to adopt the norm of democracy in a context where it had been agreed by consensus. The CSCE had all along operated upon this procedure, defining its consensus principle as 'the absence of any objection' (Heraclides 1993: 11). This pursuit of consensus carried forward into the process of post-Cold War norm construction. Accordingly, the post-Cold War norms should not be understood as merely the exaction by the victors of the necessary price from the vanquished, but rather as the 'normative framework of the CSCE', emerging from 'collective attempts to develop rules and standards' (Flynn and Farrell 1999: 512).

The authority of the new norm of democracy thus resided precisely in its consensual expression, allowing it 'to modify existing norms of state behaviour' (Flynn and Farrell 1999: 513). Then Soviet foreign minister, Shevardnadze, had been at pains to insist on this point. Writing of the virtues of the CSCE forum, he located them especially 'in the principles of consensus—not simply procedural consensus but actual functioning consensus' (Rotfeld and Stutzle 1991: 107).

The calibration of the new norm of democracy to those traditional concerns of international legitimacy did much to facilitate its adoption. This does not, finally, explain why such a norm was espoused. Here we are left with an array of factors that compete for our attention. In the context of the end of the Cold War, there were compelling strategic reasons for the Western powers to insist upon such a norm, and equally compelling instrumental reasons why emerging leaders in the former Eastern Europe should have wished to accede to it. It was soon made clear that adoption of democratic forms was to be the *sine qua non* of full access to the political, economic, and security resources that the West was believed to have at its disposal.

In any case, all wars give rise to declared war aims that eventually constrain the freedom of action of the victors at war's end. The Cold War was to be no exception in this respect. So much had it come to be structured in ideological terms as a clash between two incompatible systems of political organization that its ending could never have been expressed otherwise than as a victory for democracy. This is to say that there was, in any event, a high degree of determinism politically structured into the nature of the Cold War's conclusion. Inasmuch as the Cold War, as part of that Long War that had engulfed much of the twentieth century, had been about the legitimate form of state, it was only a final resolution of this issue in favour of democracy that could bring the struggle to an end. In this sense, a norm of democracy had inescapably to be a part of the 'new constitution for the society of states' (Bobbitt 2002: 635–6).

Underpinning this, there was a new configuration of power favourable to the United States, and upon which it was believed the new norm could be securely established. This does not mean that the United States was to be the sole norm entrepreneur across the entire agenda: its contribution was to be much more selective. For example, the head of the US delegation to Copenhagen confirmed the instructions under which his team had operated. The principal objective, Kampelman tells us, was to seek 'adoption by consensus of the US proposal on free and fair elections'. It was only a 'second priority' in the instructions 'to support and advance proposals that would help to build democratic institutions' (USCSCE 1990: 38). As we have seen, the United States felt it achieved more in this area than it might have anticipated, but it did not achieve everything. In the end, what was agreed represented some equilibrium between what was desired by individual states, and what could be consensually delivered.

This process was to some degree open to access on the part of interested non-state organizations, and the CSCE (and its successor OSCE) was to go on progressively to give an even higher profile to this dimension, both in its deliberations and in its actual peace-building operations. The Copenhagen conference, at which the major principles to be included in the Paris Charter were first agreed, marked a major stage in this process, and was also a high point in NGO activity. More generally, there was a widespread demand from the bottom-up to deliver upon some of the immense expectations to which the ending of the Cold War had given rise. Had international society had widely shared and compelling reasons to resist the norm that world society urged upon it, there is little reason to doubt it had some capacity to have done so. In that sense, it can scarcely be asserted that the Paris Charter's norm of democracy was forced upon it unwillingly. The reality, however, was that much of international society had its own persuasive reasons for acceding to these demands, and was ready enough to comply. Beyond the purely instrumental, its own calculations were that a norm of democracy would be politically well received, and that the case for international society to promote it was right. The former demonstrated the latent force of world society action, and the latter highlighted the embryonic registering of a world society claim. In such a context, there is every reason to acknowledge the input that world society made towards the espousal of this international norm. Politically, world-society endorsement gave international society the courage to stray well beyond its pluralist haven, and to come out in open subscription to the norm. Legally, there was at least an incipient recognition that international society had a responsibility for ensuring that citizens everywhere enjoyed some prospect of access to democratic institutions: to this extent, international society had begun to see the validity of a claim.

Concepts of international legitimacy are historically fluid, but no less significant for being so. Fukuyama vividly presented the unfolding drama of the end of the Cold War within such a frame of reference:

The intimate connection that exists between power and concepts of legitimacy is nowhere better illustrated than in Eastern Europe. The years 1989 and 1990 saw one of the most massive shifts in the balance of power that has ever occurred in peacetime... There was no change in the material balance of power... This shift occurred entirely as a result of a change in standards of legitimacy... Legitimacy constituted, in Vaclav Havel's phrase, 'the power of the powerless'.

(Fukuyama 1992: 258)

Such an analysis reinforces a number of points. Its claimed causal sequence is abundantly clear: it was the shift in standards of legitimacy that gave rise to the revolutionary new balance of power, not vice versa. This is partly correct, insofar as the tide of domestic legitimacy turned against the prevailing regimes in Eastern Europe, and resulted in the collapse of the old order. It was demonstrably this normative shift that brought the transformation of the balance of power in its wake. However, when we turn specifically to the adoption of democracy as a principle of international legitimacy, as enshrined in the Charter of Paris, the causal sequence is not quite so straightforward. It would be hard to maintain that the new international consensus on the norm was itself innocent of the altered distribution of power: in some considerable measure, adoption of the norm became possible only because the balance had already shifted. It was the new equilibrium that opened up the prospect of a consensually agreed international norm of democracy.

This would seem to return us to a purely state-based explanation of the origins of the declaration on behalf of democracy in the Paris Charter. That too would be only partly correct. What Fukuyama's description makes clear also is that the potency of such a standard of legitimacy could not possibly have derived purely from any artifice on the part of international society alone. Its appeal lay precisely in the extent to which it had deep roots, not just in separate national societies, but also in civil society extending across those national borders. Ultimately, then, the influence that world society was able to exercise over the adoption of the norm of democracy is best demonstrated by the power of that idea to carve out a radical transformation in the geopolitical landscape. Authorship of an idea is not restricted merely to the hands that take part in the drafting of texts, but extends to the response that these ideas are able to evoke. States, singly or collectively, will invariably attempt to adopt and adapt such ideas to their own purposes, but they are unlikely in doing so to establish exclusive control over them. When they appear so to succeed, as in the people's democracies of post-1945 Eastern Europe, their efforts are

recognizable precisely in their long-term political impotence. An international norm of democracy became possible in 1990 in part because of the unique constellation of international society at that very moment. However, the deeper explanation is also that it was grounded in a sense of legitimacy shared across a broad spectrum of world society. State actors assuredly dominated the stage, but their performance responded to that much larger audience in attendance.

## Norms, International Legitimacy, and Contemporary World Society

In the course of this book, we have examined a number of detailed historical cases of international society's contemplation of new norms, situated along the interface between international and world society. The point of this exercise has been to help understand how and why it is that international society has thought fit to adopt certain norms, many of which sit uncomfortably with those to which it has traditionally been committed. This chapter covers similar terrain, but from a more abstract, and theoretically self-conscious, point of view. How does the empirical material uncovered in these historical episodes fit into the more overtly theoretical literature in this field? It also engages more explicitly with the nature of contemporary world society, and how this might be affecting notions of international legitimacy.

The literature on IR has taken the study of norms very seriously since the 1990s (Finnemore 1996b). A central suggestion in much of this discussion has been that states do not have already established interests, but acquire them along with the formation of their identities. In this way, it has been suggested, states have to be taught what they want, and processes of socialization are instrumental in the learning that they undergo: international society is consequently a key source of the preferences of states. 'States are *socialized* to want certain things,' Finnemore maintained, 'by the international society in which they and the people in them live' (Finnemore 1996a: 2). There is no reason to dissent from such an assessment. However, what any such interpretation leaves out of account—and has not yet been sufficiently investigated—is how it is that international society comes to know what *it* wants. How has its identity been shaped, and to what extent is world society implicated in this learning experience?

There are three inter-connected stages to the argument in this chapter. First, it is necessary to locate the analysis offered in this book in the wider context of the literature on international norms: what role is performed by such norms, and how do they emerge and develop? Secondly, we need to confront the relationship between international legitimacy and world society: could it be that



it is through its learning of new norms from world society that international society shapes some of its own preferences that are then reflected in shifting principles of international legitimacy? Thirdly, how does contemporary world society manifest itself, and what is the evidence that its norms currently impact upon international legitimacy? In this final stage of the argument, we need to pose important questions about the degree of autonomy of contemporary world society from other social spheres, and about world society as a political agent, and also as a source of normative change.

### NORMS AND INTERNATIONAL SOCIETY

IR's interest in norms has blossomed during the past decade. And yet, for all the attention this topic has attracted, there has still been little progress in understanding one key element, namely why international society has adopted some norms in particular. 'Why', it has been asked, 'of the variety of norms available at any given time . . . does one rather than another become a widely accepted standard of behavior?' (Florini 1996: 363). Another analyst has expressed similar puzzlement: 'The crucial question is then how a contested norm, such as racial equality, becomes institutionalised, both globally and domestically' (Klotz 1995: 24–5). These are not the questions with which the norm literature has been primarily concerned. Its major preoccupation to date has been with the function of norms in the construction of identities (and hence in the reformulation of interests), in how norms affect state behaviour, and in the processes of norm dissemination. Thus far, it has said little directly about the social origins of these norms, or about the manner of their negotiation into international society.

A distinction has been made between a norm as referring to a 'dominant practice', and a norm as signifying a 'normative belief' (Crawford 2002: 40–1). The interest in the present study thus far has been upon the latter: the case studies have reviewed a number of normative beliefs, pertaining to the inappropriateness of the slave trade, or the priority to be accorded to racial equality, social justice, or access to democratic institutions, and so on. This distinction, however, becomes critical, as we shall see, when attention now returns to that of international legitimacy. International legitimacy is essentially a dominant practice within international society. In the pursuit of this practice, appeal has been made to a number of normative beliefs, but legitimacy cannot be equated with the attainment of any one of them in particular. Normative beliefs are appealed to in order to justify dominant practices, and this applies with equal force to the practice of legitimacy. For this reason,

the precise origin of particular normative beliefs, and how they come to be adopted by international society, becomes a matter of some considerable moment.

While mainstream IR was dominated by the neo-neo debate during the 1980s, it was mainly concerned with the causal force of interests, and their consequences for international life. Norms received relatively little attention, as there appeared to be little prospect, within such theoretical frames, for them to exercise any autonomous causality: norms were mostly to be understood as epiphenomenal, and as the by-play of interests that had essentially 'materialist' underpinnings (Klotz 1995: 13, 23). When norms were discussed at all, it was in oppositional terms: if behaviour was explained largely in terms of interests, what scope was there for the influence of norms? Norms could therefore be safely relegated to the realm of the ideal, set sharply in opposition to the realm of interest.

Those terms of debate shifted considerably during the 1990s under the challenges of constructivism, and the concomitant attempts to reject any assumption of predetermined interests. Notions of identity became central to the rival explanations of social behaviour, and this move created the intellectual space for a new wave of literature upon international norms. Under the emerging conceptions, 'norms... either define or constitute identities, prescribe or regulate behavior, or they do both' (Katzenstein 1996: 5; Kacowicz 2005: 18). Interests were no longer to be considered the products of structural circumstances, and hence as static. Instead, interests resulted from identities, and were inherently dynamic. Norms played a key role in the formation and transformation of state identities, and hence of their interests. Thus was it hypothesized that 'the emergence or strengthening of a global constitutive norm is likely to lead to change in actors' interests and identities', and also to 'produce regulative norms that will be compatible with the new or strengthened constitutive norm' (Klotz 1995: 26–7). An excellent example of this was provided by the Land Mines campaign. One major study of this insisted that 'in the case at hand the key impetus for normative change lies in processes engendered by transnational and nonstate sources of agency that generate interests' (Price 1998: 614). Interests were not to be treated as givens, but as the products of normative shifts. This being so, the nature and origins of these norms become decisive for the development of international relations.

Integral to these theoretical turns was an attempt to circumvent the traditional opposition between interest and normative belief. 'My argument is that norms shape interests', attested Finnemore. 'Consequently, the two cannot logically be opposed' (Finnemore 1996a: 27). State behaviour was no longer to be interpreted as the dominance of interests over opposed norms, or as some kind of pragmatic accommodation between the two. Instead, normative

beliefs, as expressed through international society, were to be understood as fundamental to the learning of new social roles, and to the redefinition of state interests. 'State interests are defined in the context of internationally held norms and understandings about what is good and appropriate' (Finnemore 1996a: 2). It was not a case of norm *or* interest, but of how norms served to redefine the nature of these interests. 'The emergence of human rights policy is not a simple victory of ideas over interests. Rather, it demonstrates the power of ideas to reshape understandings of national interest' (Sikkink 1993: 140). This has been explained, for example, in the context of shifting understandings about the norms of international intervention. 'The issue explored here is how one set of rules perceived by the powerful to be "in their interest"', notes Finnemore, 'is replaced by a different set of equally self-interested rules' (Finnemore 2003: 5; Wheeler 2000). Dominant members of international society, in this version, have 'moral interests', not simply economic or security ones (Nadelman 1990: 524).

At work in many of these conceptions is yet another version of the agent-structure issue, or of the mutual constitution of actors and structures. On the one hand, it is society-wide endorsement of particular normative beliefs that leads to new identity- and interest-formation on the part of states. On the other hand, norms 'are the product of actor interactions' (Klotz 1995: 19). The argument of this book is that this is a sensible enough interpretation of a complex reality. However, while the literature has so far been preoccupied with how states come to know what they want, it has been considerably underdeveloped as regards the issue of how international society comes to know what it wants. Although this clearly emerges from 'actor interactions', the nature of those interactions needs to be understood more fully. Even if we can agree that the initiative for such shifts comes from 'norm entrepreneurs' of various kinds, and that these actors are already acting 'in accordance with a redefined understanding of their interests' (Finnemore and Sikkink 1998: 898), there is much about the nature of this interaction that remains puzzling. This is particularly so along the interface of international and world society, and at those seminal moments when norms are formally adopted into international society.

To date, however, the principal foci of existing studies have been instead upon the *impact* of norms upon actor behaviour, and upon how norms *disseminate* internationally and domestically. Neither, in itself, offers a complete account of the social origins of the norms in the first place, or how they come to be negotiated formally into international society.

The predominant concern of the existing literature has been with the impact of norms on the behaviour of states. One of the earliest studies was clear that its priority lay in understanding 'how ideas... help to explain political outcomes'. Its objective was not to 'explain the sources of these ideas:

we focus on their effects' (Goldstein and Keohane 1993: 3, 7). Equally, the interest of others lay in showing 'the power of principled ideas to shape policy' (Sikkink 1993: 139). This focus upon how norms affect state behaviour has been salient in many other studies in this area (Risse and Sikkink 1999: 7; Wheeler 2000: 6; Crawford 2002: 85; Kacowicz 2005: 1).

When not preoccupied with how norms shape behaviour, the IR norms literature is otherwise mostly devoted to the mechanisms and processes of norm dissemination. Some analysts have claimed to identify a generic three-stage life cycle for norms: emergence, cascade, and internalisation. Crucial to the transition, from the first (emergence) to the second (cascade) stage, is the reaching of a 'tipping point' when the cascade gets under way: this is partly determined by numbers (approximately one-third required for the 'tip' to occur), and partly a function of the adhesion of critical states that are vital to the norm's implementation (Finnemore and Sikkink 1998: 895–6, 901). Once the tipping point has been reached, the main dynamic becomes international socialization 'intended to induce norm breakers to become norm followers'. At this stage, states adhere to the norm as a result of their 'identities as members of an international society' (Finnemore and Sikkink 1998: 902). Socialization can take the form of active proselytising on the part of key members of international society (Nadelman 1990: 484); alternatively, we can identify other processes at work, such as emulation of otherwise successful states (Kacowicz 2005: 32).

While these various research concerns begin to open up the question of the origins or sources of norms, they do not directly confront it. Accordingly, the literature on international norms remains unsatisfactory because there remains a void at its centre. It has been correct to stress the impact that norms can have upon identity, and upon consequent behaviour, and to this end has revealed much of importance about how international society socializes states to want certain things. At the same time, it has remained unhelpfully silent on the key matter of how international society is itself socialized, and comes to know what *it* wants.

It is this issue of norm origins that has been central to the present study. Allowing that 'norms do not appear out of thin air' (Finnemore and Sikkink 1998: 896), it is incumbent upon us to be more self-conscious in tracing their origins. To be sure, the literature is occasionally mindful of this hiatus, and when any mention is made of it, it is with reference to the role of specific actors, or 'norm entrepreneurs', as their proximate source. These entrepreneurs are credited with enabling the norm to secure its 'initial foothold' (Florini 1996: 375). Moreover, it has been widely acknowledged that these entrepreneurs will often be non-state actors, either individuals or transnational groups (Florini 2000; Price 2003). Finnemore had early recognized

the important role in 'teaching' states that has been played by international organizations and non-state actors (Finnemore 1996a: 12). Others had equally acknowledged 'the effects of transnational advocacy networks in processes of norm diffusion' (Risse and Sikkink 1999: 4–5). A recent study has suggested the fullest answer to date to the question of the possible sources of new norms:

A critical question in understanding the dynamics of international norms refers to how they emerge in the first place. There are several possible answers: new norms are responses to critical changes in the international environment; they are the result of imitation and emulation; they are created through international processes stimulated by subnational groups; they are the outcome of a given distribution of power within the state system; they derive from the prominence of a potential rule or from the coherence between that rule and the larger, pre-existing normative order; or they are the result of the action of 'moral (normative) entrepreneurs'.

(Kacowicz 2005: 28)

All these factors form part of any sensible answer. But how are they to be integrated into a coherent whole? In what conditions are non-state entrepreneurs most likely to succeed? Which kinds of distribution of power favour their activities? Is the substance of the norm important for its prospects of success? What is missing from all this literature—even when it is specifically interested in the activities of non-state and transnational networks—is the wider theoretical questions that are raised about the successful adoption of those norms that appear to have a world-society provenance. Typically, while consideration has been given to the political activities of non-state groups and networks, there has been surprisingly little attempt to engage with the normative processes at work in such cases.

Fully to understand the adoption of some norms by international society, we have then to accept that their origin lies in a distinct social framework, namely that of world society. What is at issue is not merely the means by which dissemination of a new norm occurs *within* a recognized society, but rather what is involved in the transference of a norm *between* societies. For this to occur, two dimensions are undoubtedly necessary. The first is that of political agency, and this has been reasonably well covered in the existing literature. The work done on norm entrepreneurs, transnational advocacy networks, and the pressures of global civil society in general all contribute to such an understanding. However, missing from this coverage is the equally significant normative process that accompanies those activities. Theoretically, this should be construed as a form of macro-society building, whereby the two pre-existing societies begin to lose their separate identities, and become fused into one larger whole of which they both become a part. Although this can be stimulated and supported by effective political action, it remains ultimately

a normative process *by definition*. To the extent that norms can 'jump' from one society to another, this reflects an equivalent degree of social integration. Norms are *social*: where they are shared, thus far does society reach. If it is then the case that international society has adopted world-society norms, this must denote a process of social integration between the two. Otherwise, any suggestion of the transference of norms between them makes no kind of sense.

In short, for there to be consistency throughout the constructivist literature on norms, the current argument must be taken one stage further. Central to the discussion to date has been the contention that 'the normative context also changes over time, and as internationally held norms and values change, they create coordinated shifts in state interests and behaviour across the system' (Finnemore 1996a: 2). Extrapolating from the very same logic, it might then be suggested that as norms change (and particularly as they are imported from world society), the identity of international society also changes, and consequently its interests. Such a coordinated shift in identity will be accompanied by political pressures and agitation, but cannot be explained by these mechanisms alone. Essential to such a shift must be also the formation of a new normative identity on the part of international society as it comes to recognize as valid the claims emanating from world society. In these various ways, the evolution of norms is important not simply for the impact they have upon state behaviour, but additionally for the resultant reconstitution of international society to which they contribute. Norms shape the identity of international society, and they are at the same time a measure of the degree of change that it has undergone. In the next stage of the argument, we need to explore how these norms relate to international society's principles of legitimacy.

## NORMS AND INTERNATIONAL LEGITIMACY

This book has been concerned with a series of individual norms, rather than overtly addressing the subject of international legitimacy as such. It is important to insist on the distinction, but not to lose sight of the direct implications for legitimacy that emerge from this discussion. While legitimacy makes appeal to individual norms that supply its normative content, it can never be identical with any one norm in particular. However, it continues to be a powerful condition with a capacity to induce fundamental changes in international politics. Those who have, for example, studied the demise of colonialism as a pervasive practice in international relations are agreed that it was brought about, neither by changing economic relationships nor shifts in the balance of power alone, but by a decline in its legitimacy (Jackson

1993: 130). 'Colonialism did not just fade away', Crawford insists, but instead 'it became illegitimate' (Crawford 2002: 4). If international legitimacy can exercise such profound transformational capacity, it is vital for the student of international relations to grasp its nature. What, then, is the relationship between international legitimacy and the sundry norms that contribute to its practice?

In their relationship to legitimacy, the norms reviewed in this book can be considered from two perspectives. In the first, they may be viewed as the piecemeal precursors of what was eventually to become an integrated set of norms guaranteeing universal human rights. Such a development occurred incrementally, and it is as discrete initiatives, rather than as part of any coherent programme, that the evolution is best understood historically. The point is well captured in the following summary:

Human rights were not considered an appropriate topic for international scrutiny and rule formation before World War II. The international precursors to the human rights issue included the movement for respect for human rights during armed conflict, the campaign for the abolition of the slave trade and slavery, the work within the League of Nations for the protection of minority rights, and the early work on the rights of workers in the International Labor Organization. But each of these limited issue areas fell far short of a full-fledged demand for attention to human rights as a legitimate topic for international action.

(Sikkink 1993: 146)

This alludes directly to some of the cases considered in this book. However, the point is not merely that these individual norms did not, at the time, amount to a consolidated programme of human rights. The second, and more important, perspective is that, even as a unified programme, human rights generically should not be thought to constitute international legitimacy. They represent, collectively, one body of normative claims set against those others that also make demands upon international society. There is no single normative source that monopolizes the resultant practice of international legitimacy. The analytical starting point, in Finnemore's apt rendition, is that 'international society is one in which basic norms are not in complete congruence'. The net effect of this condition is that '[t]ensions and contradictions among the norms leave room for different solutions and different arrangements, each of which makes legitimacy claims based on the same norms' (Finnemore 1996a: 138, 136). In short, the multiplicity of norms constitutes the reservoir from which claims to legitimacy can be drawn, but no one norm is definitive in the success of any individual claim.

The point of the present chapter, then, is not merely to rehearse the outline of an argument that has already been set out (Clark 2005). Instead, the task

is to enquire how the introduction of a different social framework—that of world society—affects the contours of this existing analysis. How does the location of the origins of some of international society's norms in world society impact upon this argument about the nature of international legitimacy? In one sense, the conclusion appears relatively straightforward: such an evolution renders international society's task of finding an acceptable equilibrium point that much more difficult. The reason for this is equally obvious. '[N]ew norms never enter a normative vacuum', we have been reminded, 'but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest' (Finnemore and Sikkink 1998: 897). What follows then is partly the logic of numbers: the more norms there are, the greater the contestation, and the higher the potential for incongruence. However, the argument goes beyond the logic of numbers alone: those norms that have their origin in world society import with them also an important qualitative difference. The resultant incongruence has more to do with this qualitative difference, than with sheer quantitative complexity alone.

The precise nature of this qualitative difference can be traced in several stages. Substantively, norms issuing from world society collectively present a frontal assault, not so much upon sovereignty, but more precisely upon the issue of rightful membership of international society. In the cases considered in this book, the act of formally subscribing to the norms rested ultimately in the hands of traditional representatives of international society: the norms were consensually negotiated into being at gatherings of international society, albeit that some representatives of world society were present at the margins of those meetings. Nonetheless, the remit of the agreed norms extended well beyond the classical subjects of international regulation. If this did not make world-society representatives full members of international society, it certainly implied that they were more than mere participants within it.

Secondly, the injection of world-society norms has opened up the settled practice of international consensus. Over the centuries, international society has developed a diverse range of practices for dealing with this vexed issue, and various representations of 'consensus' have been agreed for a range of purposes. The 'constitutional' norm of consensus has been applied in strikingly different ways with regard to the management of broad political goals (UN General Assembly), the management of international security (UN Security Council), and the management of economic affairs (G8, WTO, IMF, and World Bank). Each of these embodies a different convention about what is an acceptable version of consensus. However, as a reflection of the deep-seated issue of rightful membership, practical demonstrations of consensus are now proving much more difficult to devise. This is largely a consequence



of the broadening of the social constituency, with all its attendant problems of agreeing adequate forms of representation within any expression of consensus.

Thirdly, if it is the case that international society's operational notions of consensus have developed under various distributions of international power, this factor also has now been rendered much more complex. In current formulations, it embraces not simply the interstate balance of power, but the relative strengths of state and non-state sectors, or more generally the social balance of power between the state system and global civil society. What was always a fine calculation to make, even within the confines of international society narrowly conceived, is now that much more complex when the broad spectrum of global social forces needs additionally to be factored into the equation. This very complexity, however, is no reason to regard the issue of equilibrium as any less relevant to the formulation of an acceptable practice of consensus. The state sector in the South, for example, remains deeply suspicious of the power of global civil society in the North. This confirms that, in the determination of legitimacy, equilibrium is hardly less relevant, simply that much more complex to specify.

Finally, the imported norms of world society are qualitatively different in that they entail a claim that is seemingly universal. To speak of human rights as universal human rights is to engage in verbal redundancy. Historically, those norms in which transnational moral entrepreneurs have been most interested have been those that are cosmopolitan in nature: their purview has related 'not to the ways in which states treat one another but, rather, to the ways in which individual human beings are treated both by states and by one another' (Nadelman 1990: 524). Deriving from this characteristic, these norms carry a putative capacity to trump other competing norms, and it is this—again, rather than any specific threat to sovereignty—that lies at the heart of the challenge they present to the practice of international legitimacy. Thus far, international society has devised a practice dependent upon the necessary negotiability of the sundry norms to which it subscribes. The human rights' norms imported from world society simultaneously exacerbate the incongruity with other traditional norms, while also reducing the scope for effective accommodation between them. It is in these ways that the norms sourced from world society have considerably complicated the practice of international legitimacy.

The study of norms and identity shifts the focus in the study of international relations, and the inclusion of a world-society dimension gives it yet an additional twist. People, we are told, follow norms 'because they want others to think well of them', and this is shaped 'by norms held by a relevant community of actors' (Risse and Sikink 1999: 8). In these terms,

the key question is about the scope of the community of actors relevant for this purpose: who are the 'others' we wish to think well of us? It is immediately apparent that the constituency, insofar as world society has made its presence felt, is now much broader than the world of states alone. Crawford is right to point out the need to present 'legitimizing' arguments in a world 'thick with international institutions', and where 'transnational advocacy networks provide venues where states, corporations, and individuals have to justify their international behaviour' (Crawford 2002: 35). All actors have reputations to win or lose, and there are multiple audiences involved in according such reputations (Klotz 1995: 27–8). It follows that it is not just the range of those actors seeking justification that has expanded, but also the multiplicity of potential addressees to whom their appeals are directed.

In sum, if norms are instrumental in shaping new identities, this is where the complications set in. World-society norms make additional demands upon international-society actors that reduce their freedom for practical manoeuvre. This is all the more so because of the tendency of such norms to produce their own distinctive pattern of cascade. If it is true, in general, that '[c]hange in one set of norms may open possibilities for, and even logically or ethically require changes in, other norms and practices' (Finnemore 2003: 57), then this has particular applicability to those norms deriving from world society. As soon as any one is accepted, it becomes increasingly difficult to resist the logical or ethical force of many of the rest, given the strong family resemblance among them. To this extent, they exercise an insidious effect on international society. The incremental introduction of these norms unsettles existing accommodations elsewhere, and thus destabilizes prevailing patterns of legitimacy. 'Ethical arguments may upset or alter the perceptions of legitimacy associated with a dominant practice', Crawford tellingly observes, 'by showing a disjuncture or hypocrisy between present behavior and an already existing normative belief' (Crawford 2002: 102). This gives rise to a norm cascade of a different kind, or, to change metaphors, to a domino effect. Accession to one norm calls into question other existing practices. The instrument inducing the subsequent cascade is, therefore, the practice of legitimacy: it finds itself increasingly squeezed by the application of the new norm, and less able to hold a tenable line in the face of demands to extend its application elsewhere.

To work through the force of this argument, we need to turn to the evidence of the relationship between international legitimacy and contemporary world society. However, there is a prior question that needs first to be considered: just how 'autonomous' is contemporary world society, and whom does it represent?

## CONTEMPORARY WORLD SOCIETY: IS IT AUTONOMOUS?

What are the contours of this contemporary world society? When the literature eschews the language of world society, it settles instead for variants of global civil society, global social movements, transnational networks, and INGOs. These are, in principle, distinguishable from each other. Global civil society is the encompassing term that denotes the non-state 'third sector' in its relations with the inter-state system and with the global economy (O'Brien *et al.* 2000: 15), although others have been reluctant to factor the global economy out of its embrace (Keane 2003). Global social movements are organized groups committed to a variety of social, religious, and political objectives: these might as likely be reactionary as radical. They cover the gamut from feminist to environmental groups, and to fundamentalist Christian or Islamic movements. Transnational networks are much more informal, and will often be galvanized by a single issue: they may have little collective existence beyond the internet. INGOs, in contrast, are characterized by formal organization and a degree of bureaucracy. They have been described, in somewhat critical vein, as those 'tamed social movements' that have become sufficiently institutionalized to amount now to 'the respectable opposition' (Kaldor 2003: 589).

We need not be overly preoccupied with the differentiations between these particular sectors of world society. What is of interest is the status of world society as a totality, of which all these sectors form a part. In particular, we need to consider the indictment of global civil society that rejects the 'ubiquitous assumption' that it somehow 'is intrinsically benign, because of its opposition to the modalities of power enshrined in state and market' (Kenny and Germain 2005: 10). Does such a critique hold good of contemporary world society, and does this have implications for it as a source of new international norms? To pursue this investigation, we need to make some assessment of the autonomy of world society, and, as a related matter, of the degree to which it might be thought simply to import power relations from the other two sectors.

The idea that either world or global civil society can serve as an independent normative source assumes that it has some autonomous existence: to the extent that it is constituted by the other two sectors, its independent regulatory capacity, or its claim to embody the public sphere, is thereby diminished. For this reason, it is important to consider the debates about the putative autonomy, or otherwise, of world society. Can it credibly be seen to represent itself, or do its credentials remain more than a little suspect (Colas 2002; Anderson and Rieff 2005)?

A number of analysts have considered such questions, and, in so doing, they bring an important perspective to bear on the present topic. For example, it has been asked of global civil society, '[d]oes it wield direct power over states

or is it a mere epiphenomenon, a reflection of the state system?' (Lipschutz 2005: 747). Others have prompted the same line of enquiry. By exploring the genesis of global civil society, they claim to find its origins in the spaces created for it by the state system, and by the adjunct processes of globalization. This had been Latham's argument. 'States and the national civil societies they bound', he averred, 'create a social space for the very agencies (such as NGOs and new social movements) that are seen as essential to (if not constitutive of) contemporary global governance.' At the same time, 'the formation of the plurality of states and societies into an international society . . . global in scope, should be seen as requisite for the emergence of the practices, institutions, and even discourse of global governance' (Latham 1999: 45–6). On this accounting, one might be sceptical of the independence of global civil society: it is as much output, as agent. Otherwise expressed, there is considerable evidence of 'governance-led "making" of civil society' (Germain and Kenny 2005b: 198). Any such depiction raises complex questions about who is the poacher, and who the gamekeeper, in this circuitous relationship.

The same point is directly relevant to any consideration of world society's capacity to shape international society in new normative directions. According to the critics, it is the lack of autonomy of world society that tends to reproduce the embrace of the states system and of the global economy. It is 'deeply enmeshed with forms and practices of governmentality', and is, accordingly, 'less a "problem" for power than a product of power' (Lipschutz 2005: 768). It is in the interests of this system to legitimise the activities of INGOs, exactly for the reason that they, in turn, 'legitimise the post-Washington consensus, for instance by linking civil society to an apolitical notion of governance' (Chandhoke 2002: 45). Far from representing a source of new normative influences upon international society, any such conception of world society posits it as a bulwark of the existing state-led status quo.

These are weighty matters, and of immense potential implications for the argument. To the extent that world society is simply constituted by international society, and by interaction with global capital, what sense does it still make to conceive of any 'encounter' or 'engagement' between the two? If this is the problematic question to be answered at the general level, there are also innumerable specific versions of the same issue. This brings us to some assessment of the potential for world society to be fairly represented by those societal movements, networks, and organizations that would purport to speak in its name. The issue then slides from one of autonomy and independence to the related matter of the social distribution of power.

This is an aspect that has been repeatedly singled out for scrutiny by a large number of analysts, writing from a variety of perspectives. They share, nonetheless, broadly similar concerns. If world society is not wholly

autonomous of international society, to what extent can it fairly organize itself to interact with its opposite number? Alternatively, and in Hurrell's words, is the interaction not doomed to *deformity* because world society is corrupted by those inequalities emanating from within international society? All that world society can do, in such circumstances, is replicate and magnify the differentials that already exist elsewhere. These critics object to those sanitized versions of civil society (and by extension of world society) that 'occlude recognition of the power dynamics and social relations that shape associational life' (Kenny 2003: 133).

These suggestions can be briefly illustrated in the context of the representation of NGOs within international organizations. Woods cites the specific case of the WTO. In recent years, some international organizations have formally embraced NGO representation within their consultative mechanisms, and the WTO is no exception. However, of the 738 NGOs accredited to the Ministerial Conference of the WTO in Seattle, she notes, 87 per cent were based in developed countries (Woods 2002: 36). A similar story is told at one remove. Allowing for the dispersal of economic functions and regulation beyond the state, it still is the case that these central functions remain 'disproportionately concentrated in the national territories of the highly developed countries' (Sassen 2002: 100–1; Hall and Biersteker 2002b). Such a reality has the potential to deform the role of world society in three senses. First, it further entrenches the power of the leading Western states, by privileging a role for non-state groups in which Western values and interests are predominant (Chandhoke 2002: 49; Kenny and Germain 2005: 10). Secondly, by regarding world-society representation as the solution to its problem, international society may simply be given a supplementary dose of the original disease. If unequal power is the problem, then any appeal to NGOs to alleviate the democratic deficit will simply 'exacerbate global inequality' (Hurrell 2005b: 57). Thirdly, there is a danger that this will informally create a double representation for some (citizens of strong northern states, well represented additionally through INGOs), alongside no representation for others (citizens of weak southern states, largely excluded from the civil society sector) (Held 2004: 112).

There can be no gainsaying that there is a multitude of problems in identifying, representing, organizing, and articulating world society. At any one moment, any particular claim to represent, and speak on behalf of, a singular world society will suffer from many of the deformities noted above. Nonetheless, without sidestepping the full implications of these objections, it may remain helpful to cling to a concept of world society as a tendency or incomplete process. We cannot discover it in any fully developed or unproblematic form. Nonetheless, and however deformed, it is best seen through its own internal search for an acceptable collective identity, and in its external

interactions with international society. It is in this engagement with international society that world society most clearly aspires towards self-realization, and the acknowledgments bestowed by international society are deeply formative in this process.

At the end of its campaign for the abolition of landmines, the network of engaged INGOs that formed the effective coalition, in conjunction with interested state parties, was awarded the Nobel Peace Prize. It is instructive to note the terms of the citation. This read that the campaign made it 'possible to express and mediate a broad wave of popular commitment in an unprecedented way' (Chandhoke 2002: 38–9). The campaign was noteworthy for the treaty to which it led. In addition, it can be understood as a highly significant formative process whereby world society found one way of expressing itself. There can never be any single or definitive instrument for doing so, but the sum total of the tendencies towards such an ideal stand as some measure of its development. We now need to consider, as with the preceding historical cases, how contemporary world society functions both as a source of political action, and as a source of normative initiative, upon today's international society.

## CONTEMPORARY WORLD SOCIETY ACTION

'By the time the tear gas cleared', it has been asserted of Seattle, it had become apparent that 'NGOs have become players in international governance' (Brown *et al.* 2000: 272). The metaphor may be striking, but its history is suspect. NGOs had become important players, as we have seen, long before the spat in the streets of Seattle. Such NGOs 'sometimes cooperate with, often compete with, and endlessly interact with the state-centric system' (Rosenau 2002: 72; Rosenau 2003). The object of this section is to trace the nature of that political cooperation, competition, and interaction with contemporary international society.

As might be expected, its most overt form has been revealed through lobbying and pressure in the public domain. That there should have been a striking intensification in the lobbying conducted by INGOs in the last quarter of the twentieth century is attributable, at the very least, to their rapid numerical expansion, from some 176 at the beginning of the century to close on 40,000 by its end (Held and McGrew 2002: 6–7).

The two most dramatic successes of the INGO sector during the 1990s are widely taken to be the Ottawa Convention on Landmines, and the campaign to establish the International Criminal Court (Murphy 2002: xv). Both witnessed intensive campaigns involving large numbers of INGOs. In addition, both

displayed interesting examples of cooperation between INGOs and sympathetic states, in order to maximize support on behalf of the measure. It is commonly acknowledged that this was to be a vital ingredient in their respective successes.

The process leading to the adoption of the Ottawa Convention is a particularly good demonstration of the continuing themes of this book. There is no doubt that much of the running in raising the issue was undertaken by organized networks of world society. 'More than one hundred individuals representing over seventy NGOs', we are told, 'were at the first session of the 1995 Review Conference held in Vienna' (Price 1998: 620). One noteworthy characteristic of the Ottawa process was 'the inclusion of NGO members on official state delegations at international meetings' (Price 1998: 638–9). Throughout, there was intensive networking between NGOs and state and international-organization officials.

This was equally so in the case of the ICC (Glasius 2002: 164–5). By the time the final conference on the ICC was held at Rome 'the NGO Coalition for an International Criminal Court had grown into a network of over 800 organizations, 236 of which sent one or more representatives to Rome' (Glasius 2002: 147; Ralph 2005: 35). 'Lobbying state representatives', we are informed, was the main point of attendance in Rome, further testified by the absence of any separate NGO Forum at the conference (Glasius 2002: 150).

This last was relatively unusual in the scheme of INGO activity that had developed during the 1990s. Whereas holding a parallel INGO summit had been at least implicit in the bargaining strategies of NGOs since The Hague conferences, this had become a major feature of the landscape in the latter part of the twentieth century, and was something of a routine accompaniment to any major international summit or meeting of a key international organization by the end of the 1990s. Most of these parallel summits were held at the end of the 1990s, and in the early years of the new century (Pianta 2001: 177). To give some impression of their scale, approximately 30 per cent of those meetings held during the period 1988–2001 saw attendance by more than 10,000 participants (Pianta 2001: 183). Interestingly, of the organizations present at such parallel meetings, only 30 per cent of respondents reported that their objective was 'lobbying official representatives', whereas 80 per cent replied that the main purpose was preparing alternative policies (Pianta 2001: 184).

Those activities apart, the most conspicuous fashion in which world society marched onto the stage was via the large-scale demonstrations and protests that came to characterize Seattle and Genoa, and a multitude of other cities. However, on the grounds that public demonstrations of this kind are the refuge of the least powerful, we should perhaps look to other channels of

access for the more privileged sectors of world society. At this point, the issue reverts to the selective co-optation of civil society groups into the frameworks of international organization consultation, and the basis and implications of this selectivity. Such cooption became a major feature of such principal bodies as the WTO, IMF, and World Bank during the latter 1990s, and even made some very modest inroads into such gatherings as the G7/8.

This engagement has been depicted in largely competitive terms. 'The collision between powerful economic institutions and social movements in many countries,' we have been told, 'has led to a contest over global governance' (O'Brien *et al.* 2000: 2). This is demonstrably one aspect of the encounter, but possibly does not capture its full diversity, as there has been mutuality and cooperation as well. This particular study (O'Brien *et al.* 2000) was the most comprehensive to date to explore the extent to which the major economic and financial institutions had opened their doors to allow some access to INGOs. Changes undoubtedly did occur during the 1990s, allowing a degree of favoured insider status to a range of INGOs. It was concluded at that time that such multilateral institutions were indeed 'going beyond their member states in an attempt to ground their legitimacy within civil societies' (O'Brien *et al.* 2000: 209). The participation, however, remained limited and selective. Suspicions were harboured by southern states, uncomfortable with the role that the admitted INGOs would play (O'Brien *et al.* 2000: 219). At the same time, the perennial issue of the basis of selection of INGOs, and their representative status, came into play (O'Brien *et al.* 2000: 208).

A similar degree of opening to world society has occurred among the majority of international organizations. This has been the case with the WTO, but on a highly selective basis (Wilkinson 2005: 170–1). It has also been a general feature of what has been described as the 'new global finance', as it has tried to recover from the financial shocks of the late 1990s. Widening NGO participation has been positively welcomed in this area (Germain 2005: 184–5). How influential this engagement has been remains an open question, but it at least suggests that world society has now been afforded limited channels of communication directly with international organizations, allowing it to move beyond the 'powerless' encounters that take place on the streets.

Similar trends have been detected also within the activities of the G7/8, even if the significance of this should not be overstated. Throughout the 1990s, INGOs had shadowed the G7/8 by holding parallel summits (Bayne 2002: 29). However, there was no formal recognition of this potential constituency: any acknowledgement of 'NGOs' and 'civil society' did not appear in official G7 documentation until 1995 (Hajnal 2002: 212). The linkage then became more institutionalised at the initiative of the Japanese government, host to the Okinawa summit in 2000:



Okinawa set a new direction by giving civil society organisations a meaningful place in the Summit... The Japanese government had appointed a director general for civil society participation within its Summit planning team. The personal representative of the Japanese Prime Minister, Yoshiji Nogami, Deputy Minister of Foreign Affairs, travelled to London and sent officials to Brussels to meet with leaders of major civil society organisations, including Save the Children, Christian Aid, and Amnesty International. The Japanese government hosted several conferences involving civil society organisations in the lead up to Okinawa. It created and NGO centre at Okinawa where NGOs could accredit their own media... The facility was provided by the government, but run by the NGOs themselves.

(Kirton 2002: 63)

There is considerable realism in the assessments of the significance of these procedures. No one imagines that world society has a central presence in G8 summits, which remain very much in the 'executive multilateralism' tradition. Nonetheless, the changes have gone beyond empty symbolism. Movements such as Jubilee 2000 are credited with particular influence in bringing about this transformation (Hajnal 2002: 215). The G8 partnership with NGOs, it is claimed, is now 'a recognised, established process' (Hajnal 2002: 219). What it has entailed is a 'conception of global society as an organic unit' of G8 discussions (Stephens 2002: 246). To the extent that this has occurred, it represents a very substantial shift indeed.

It is no part of the present argument to suggest that, either through their external lobbying activities, or through their internal consultations, world-society groups have exercised a massive influence over policy outcomes. This would be an unsustainable interpretation. The argument is the more modest one that, in the process of these encounters, world society has acted as a norm negotiator, impressing new normative concerns upon international society. This has avowedly occurred where world society has been the source of a conspicuous normative agenda that might not otherwise have reached the negotiating tables. It is this role as a norm negotiator that is crucial.

The argument must not be overstated, but emerges in the following stages. It is generally accepted that world society is at its weakest at those international gatherings summoned to take specific decisions. At that point, executive multilateralism reigns supreme. In contrast, it has been concluded, 'official summits in charge of framing issues, rather than taking decisions, are more likely to be open to the voice of global civil society, as in the case of the large UN thematic conferences (Pianta 2001: 190). This is interesting, and fully consistent with the present argument: world-society influence generally takes the form of the normative framing of the issues, rather than of policy determination. This fits with other assessments. It has been suggested of INGOs that 'their stake in the arena of global governance is more of a deliberative

one'. What INGOs do best, Woods judges, is to 'bring principles and values to the attention of policy-makers' (Woods 2002: 27). The principal role for NGOs is 'to help construct international values and norms that can guide future international policies and practices' (Brown *et al.* 2000: 283). What the complex of non-state actors at the heart of world society succeeds in doing is to develop 'new forms of soft, informal norms' (Collingwood and Logister 2005: 182). There is a substantial consistency running through all these suggestions. However, in order to substantiate fully these arguments, we need to move beyond the political actions of world society and to the normative claims that it seeks to register.

### CONTEMPORARY WORLD SOCIETY CLAIM

'[G]lobal civil society actors', it has been mooted, 'legislate and mandate a normative...structure for the national and international community' (Chandhoke 2002: 41). How and why might global civil society find itself in a position to exercise such an authoritative normative role? In part, this depends on world society having sufficient self-identity to serve as the source of normative claims upon international society. In addition, however, international society must be persuaded to recognize the validity of these claims. Two intersecting processes are at work—the constitution of world society, and its validation by international society. This is a process of engagement and negotiation, not one of displacement. At stake is a practical resolution of Mervyn Frost's enquiry: 'If we are participants in a global civil society, what form of ethical life is embedded in it and how does this square with that embedded in the society of states?' (Frost 2005: 120).

Membership of world society is best understood as an example of what Frost describes as an 'open' practice, and in contrast to a 'constitutional' practice. He maintains that people 'know themselves to be participants in a global constitutional practice which is the society of sovereign states, but do not have a similar awareness of participation in global society. The latter, accordingly, is best seen as an example of a 'species of practice which may exist even though the participants in it are not at all, or not fully, aware of the parameters of the practice within which they are participating' (Frost 2005: 121–2).

What this addresses is the incomplete identity of world society, and what is entailed in its partial self-realization. This is largely a matter of two elements: these are self-awareness, and external recognition, both of which feed off each other. The more confident world society becomes in its own identity, the

greater the authority with which it can speak to international society: the more international society signals its formal willingness to listen, the greater that confidence becomes. Nonetheless, it has to address the otherwise major difficulty that 'the boundaries and constitution of such a community are virtually impossible to define' (Collingwood and Logister 2005: 179; Koppell 2005: 25). Arguably, the process of definition is itself an adjunct of the negotiation and clarification of norms: world society emerges in the process of seeking agreement about such norms. This, for instance, was a major thrust of a speech given by the Pascal Lamy, Director General of the WTO. His focus was upon the search for common values: 'Values allow our feeling of belonging to a world community, embryonic as it may be, to coexist alongside national specificities. Can, in other words, diversity be transcended in such a way as to allow the "community of nations" to become... a "global community"?' (Lamy 2005: 3–4).

Development of such an identity is not exclusively the prerogative of world society. It is assisted by interaction with international society, and particularly so as regards the recognition that the latter can bestow. In the context of legitimacy, what is crucial is not simply *de facto* acceptance, but a sense of rightful membership, entailing the capacity to make valid claims. 'In the corpus of legitimacy rules...', it has been noted, 'the right to recognition is fundamental' (Van Rooy 2004: 78). It is this conjunction—a sense of self-awareness as an existing society, coupled with international society's recognition of a legitimate claim—that is decisive in this process of construction. This is the point raised by one commentator: 'World society is constituted by individuals and non-state groups conscious not merely of their rights but also of their responsibilities towards one another. On what basis those claims are asserted and whether states are obligated to meet them, is of course a matter of intense debate' (Ralph 2005: 35). Much of this debate is conducted as a matter of normative theory.

However, by way of contrast, the present argument is intended to establish the extent of the recognition of this obligation by the society of states as an empirical fact. It is a recognition that arises, reciprocally, from the realization that international society is itself beholden, not just to states, but also to a society beyond, in the attainment of its purposes. For instance, in the area of environmental policy, states alone cannot deliver new forms of behaviour. Ultimately, international society is making demands upon world society, and can do so only within a framework of reciprocity that recognizes equally its own responsibility to world society. As has been said of attempts to alleviate current environmental problems, 'the ultimate *addressees* of regulations issued by international institutions are largely *societal actors*' (Zurn 2004: 268). Even

if only in response to its own needs, international society has been forced gradually to recognize the claims emerging from world society. These claims emerge in the shape of soft and informal new norms.

We can explore one case study to illustrate the force of this assertion. This is the already mentioned creation of the International Criminal Court (ICC). The Court has been created to enforce respect for human rights by providing a judicial mechanism to hold to account those who violate what the law requires. As noted, elements of world society played a high-profile role in the politics that helped bring this Court into existence. What needs to be emphasized in this illustration is not merely the political agency leading to the new institution, but additionally the normative significance that was attached to it. It was in the promotion of a new norm, of which the ICC was a tangible expression, that the presence of world society is best demonstrated. The norm has enjoyed wide resonance, even though it has been resisted by some states, including the most powerful of them. Its adoption means not that international society has been defeated, nor that it is about to be displaced. What it means instead is that the engagement between world and international society has contributed to a new normative framework that already shapes the terms of international legitimacy.

Why is it necessary to discuss the ICC as emerging from a negotiation between world and international society? Ralph captures the essence of the issue nicely in his analysis of the situation, drawing special attention to the nature of US opposition to the Court:

the US could get through the institutions of international society what it could not get through the institutions of world society . . . Keeping major decisions, including those on international criminal justice, within the confines of the society of states is clearly part of a strategy to maintain hegemony. Such motives are contrary to the idea that the enforcement of international humanitarian law can help democratise global politics, by holding power to account for egregious human rights abuses.

(Ralph 2005: 42)

What this suggests is that the politics of the ICC demonstrated a competition between two normative systems. One was hosted by the society of states, and the other by world society. The United States found the former more congenial to its interests, and resisted the demands that the latter entailed. Nonetheless, the creation of the Court was finally supported by the majority of states, and established under the Rome treaty. This brought with it a wider set of normative implications, beyond the narrow letter specified in the treaty. What did it signify? Its implications were by no means straightforward, as some of the principles advanced by it were to be tempered in practice. Nonetheless,

it was a landmark event, as many have come to accept, however many the qualifications that need to be acknowledged.

The salient point of interest is in the provisions for judicial process against those indicted 'even if their own government is unwilling or unable to do so' (Gladius 2002: 137). The general import of such a 'revolutionary' provision was its contribution towards an 'international legal order that is less based on state sovereignty and more oriented towards the protection of all citizens of the world from abuse of power' (Gladius 2002: 137). In this respect, in intention at least, the instrument is potentially cosmopolitan. It does not, of course, in any way stand down or supersede the society of states: arrest and extradition, which the Court has no independent power to arrange, is left to the goodwill of state representatives. Nonetheless, the normative implications of such a system are powerful:

It is argued here that the Rome Statute's definition of core crimes... and its provision of an independent prosecutor to punish those individuals guilty of such crimes, *helps to legally constitute world society*... [T]he Court can theoretically transcend the state system and the society of states... [T]he Rome Statute might be seen as a revolutionary document that *helps to legally constitute a world society of humankind beyond that expressed by the society of states*.

(Ralph 2005: 28, emphases added)

In his conclusion, Ralph quotes Megret on the revolutionary importance of this doctrine underpinning the Court. This 'may not do away with the state system', Megret acknowledges, but it would certainly 'rest its legitimacy on an entirely different footing' (Ralph 2005: 43). This represents, at once, a lavish tribute to the capacity of world society to influence the norms of international society, while at the same time acknowledging the need for international society to enforce those norms.

## CONCLUSION

World society should not be seen to be exclusively an agent in its relationship with international society. It is, to be sure, acted upon as well. It is therefore no part of the present argument to suggest that world society is coming to displace international society. Much more interestingly, the focus of this review has been upon the extent to which international society has embraced norms that clearly have emanated from outside it. This normative infusion operates, in part, at the procedural level. Here, the impact is to normalize the participation of world society in the various institutions and organizations

of global governance. This has already occurred to a substantial degree, with the result that the 'legitimacy of... global governance itself is thus now made increasingly dependent on the increased participation (*voice*) of civil society actors' (Van Rooy 2004: 140). It also has a substantive component, where the norm is directed towards realization of a human value, such as that of protection against human rights abuses. If it is true, as has been suggested, that 'soft power is... relative to norms' (Keohane and Nye 2000: 25), world society has increasingly exercised soft power via the norms that it has encouraged international society to adopt.

Nonetheless, world society continues to be beholden to international society. It cannot regulate through its own norms alone, nor does it possess the requisite political institutions of its own. Its normative voices 'can suggest, but not themselves legitimately constitute, the kinds of regulatory authority needed...' (Kenny 2003: 143). This mutuality was very apparent in the Land Mines convention: 'International norms such as those prohibiting AP land mines require and enhance the centralized state's control over the means of violence', we have been reminded, 'even as civil society has successfully sought to circumscribe the form of that control' (Price 1998: 642). For this purpose, world society remains dependent upon international society, but upon an international society that is neither static nor timeless. It is one undergoing continuous transformation in response to the normative infusions emanating from world society.

Contemporary world society is better organized, more highly mobilized, and more effectively able to communicate than at any previous historical juncture. On the basis of some of the examples cited in this chapter, some legal theorists are comfortable to speak about an emerging world law that is different from international law. If that were so, we might then be able to speak of the addition of yet another distinctive institution to the panoply of world society. In these respects, world society's 'quantitative' impact upon international society is currently much more visible than in the past, so as to give rise to a sense of revolutionary transformation. Qualitatively, however, there is much continuity in the kind of role that world society has been playing over the past two centuries. This should make us sceptical of some of the less restrained proclamations of the imminence of a new world-society order. We can now turn finally to the conclusion to tease out some of the specific themes that emerge from this historical account.

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# Conclusion

This conclusion needs to perform two tasks. First, it must synthesize the findings of the various case studies such as to permit engagement with the wider theoretical agenda of the book. Secondly, it must take stock of what has been contributed to our understanding of international legitimacy, and to the literature on international society within which it is set. This will bring together the English School and constructivist literatures on international norms, and will do so around the central concept of world society.

## HISTORICAL ENCOUNTERS

There is little to be gained from a straightforward recapitulation of the main points to emerge from each of the case studies. To extract the maximum theoretical interest, it is best to follow a common scheme from the themes they raise. These relate principally to the *conditions* in which the encounter between international and world society took place, as well as to the *consequences* of that encounter.

Under the first heading, various questions were asked about the prevalent conditions within international society at the specific juncture: was the normative initiative facilitated by the support of a particular state entrepreneur, and what were its interests in so doing; was that factor given yet greater leverage by the power or reputation of the sponsoring state(s); did norm adoption depend upon the prevailing degree of consensus within international society; was it further fostered by the highly unstable conditions presented by the aftermath of a period of warfare? Similar questions can be asked of the condition of world society at each of these moments: how cohesive and active did world society appear at the time; did it enjoy particular leverage over international society because it was supported by allies within the latter; can we make any judgements as to whether it was world-society action, or world-society normative claims, that produced the more decisive results?

In each of the cases, we must attempt also some overall assessment of the consequences of the intervention: what were the particular tactics adopted by



those sectors of world society interested in raising the issue; how decisive was the role of world society in affecting the particular outcome; and what was the general significance of the normative innovation that had been produced? Obviously not all these questions can be answered comprehensively for all six cases. However, a broad-brush summation can be attempted.

The book opened with the attempt to internationalize a ban on the slave trade in 1815, in the wake of Britain's unilateral abolition of 1807. Certain dominant features of the conditions within international society stand out starkly. Britain was the key supporter of the move, and enjoyed a strong position at the end of the war. It held considerable material advantages, and could deploy them against recalcitrant states. The leading recidivists were France, which had just been defeated, and Spain and Portugal, both of which felt politically and financially exposed. Britain benefited from ideational, not simply material, advantages in the shape of its reputation as an 'advanced' state. That said, it also had material interests in seeking to widen the abolition, as there was little to be gained if the 'odious trade' simply redounded to the advantage of those who persisted in its conduct. At the same time, efforts to police the trade through naval inspection gave some moral licence to Britain to consolidate its maritime supremacy. There was a reasonably high level of 'negative consensus' within international society, generated by war-weariness and revolutionary concerns. This expressed itself through concert diplomacy, and it is instructive that this method was explicitly extended to the oversight of the slave trade.

The relevant section of world society at the time varied considerably in scale, both horizontally and vertically. There were activists in the cause of abolition throughout much of Europe, and in the United States, but they were much thinner on the ground outside the main abolitionist countries. Among the eastern powers (such as Russia, Prussia, and Austria), interest in the issue remained confined to a narrow elite: Tsar Alexander typified the intermittent interest. In Britain, the movement had struck much deeper popular roots, mobilizing an exceptionally high percentage of the population in support of its petitions. World society, of course, embraced also the slavers, and the slave traders, many of whom fought successful rearguard campaigns against abolition, most prominently in France and Spain. It might be a reasonable generalization to say that the elites in a couple of countries, enjoying widespread popular support, were able to storm the metropolitan centres of power in Britain: to that extent, national abolition had a bottom-up dimension. When the attempt was made to internationalize the ban, the evidence would suggest otherwise that the process was largely top-down, the British government exercising pressure at the highest levels to bring about societal change within the slave trading communities.

That is to say that successful world-society political action was the exception rather than the rule. At the same time, it was that particular exception that was to drive the British government to make the issue one of concern to international society, and to take the necessary measures to ensure tolerable degrees of compliance from the other powers. There is little doubt that material inducements were a necessary means to this particular end. Even so, British ministers acknowledged their persuasion by the moral case that had been made and, more importantly, understood the normative effects of encouraging a multilateral, and consensual, declaration on the subject. The argument, in conclusion, is two part: it required non-governmental mobilization within Britain to place the issue on the international agenda; once there, Britain relied upon the impact of this new norm to persuade the others, in the longer term, to fall into line.

The case of The Hague, and its elevation of the public conscience as a principle of international society, is slightly anomalous. This took place, not in the aftermath of war, but in the shadow of a widespread concern to prevent one. However, since it named itself a peace conference, and issued agreed statements of principle at its end, it can be treated as functionally comparable to the other cases for our purpose. Nonetheless, as peacetime meetings, The Hague conferences obviously displayed a different dynamic. At the very least, there were no victors, enjoying post-bellum dominance, to make the normative running.

Imperial Russia was the pro-active state in initiating the conferences, but it is far less clear that it enjoyed any special role in the promotion of the idea of the public conscience (except insofar that Martens happened to be the author of the famous clause). It would be far-fetched to suggest that Russia was particularly identified with the need to strengthen the laws of war, or with the application of a test of the public conscience to their elaboration. Instead, Russia promoted the multilateral gathering for fairly limited and traditional reasons, no doubt encouraged by its own financial straits.

Other states responded in kind. A handful of them seized the opportunity to push through an embryonic commitment to a process of international arbitration. In that sense, there was no single state norm entrepreneur at The Hague, and it would be misleading to suppose that the public conscience was adopted, either because of Russian power, or prestige. Moreover, as the highly revealing spat over disarmament and arbitration was to demonstrate, international society was already deeply divided, and consensus on any issue hard to find.

All things considered, The Hague proved more successful than it deserved: the historical norm with which it can be seen to be associated emerged more by accident than by design. That is to say that the conference, to some degree,

acquired a momentum of its own that issued in positive, albeit limited, results. Above all, its inclusion in this study is merited by its association with a broad principle that eventually far exceeded in importance the original intent of its authors. The conferences took place in the context of a highly active, and more extensively organized, peace movement that strove above all for substantial measures of disarmament. In this, it was to be wholly disappointed. Nonetheless, The Hague proved host to the most unusual spectacle of diplomats and officials huddled closely together with an astonishing array of citizen groups: the latter peered anxiously over the formers' shoulders.

Since large swathes of this same world society were very soon thereafter to be found deployed in opposing enemy trenches, we should be careful not to read too much into this episode. However, a powerful normative principle did emerge, against all the odds, from the array of posturing and cynical deal making that was its necessary accompaniment. This norm combined an explicit principle of humanity with an acknowledgement that public sentiment was to be of critical importance to the substance of the regulations hereafter adopted by international society. The easy judgement to make would be that The Hague delivered nothing of real substance, and so settled for some disarming rhetoric that would play well to the gallery. This, however, is to miss the point. What the case instead demonstrates is that the rhetoric found its way into usage exactly because it struck a responsive chord beyond the confines of international society; once in use, it continued to develop a significance that its authors could no longer control. World society was instrumental in both of these developments. For that reason, the consequence of The Hague meetings, through its adoption of a principle of the public conscience, was to be far more significant than might have been imagined at the time.

The attempt to write a clause on racial equality into the League Covenant was the odd one out of the various cases under consideration, and for the obvious reason that it resulted in failure. International society declined to endorse any such norm at the time. However, this negative outcome is instructive in its own way. As with the abolition of the slave trade, the issue was sponsored by one state in particular, namely Japan, in this instance. In both cases, the sponsoring state had been part of a coalition victorious in the preceding war. As with the slave trade, it is possible to discern a variety of interests that the sponsoring state might have been seeking to further by advancing the particular norm under consideration. However, the contrasts are as sharp as the parallels. Whereas Britain emerged from the war in 1815 in a position confidently to flex its naval and financial muscle, Japan found itself in 1919 a parvenu among the victorious states. Its action was largely defensive, reflecting its own perception of being treated as an inferior. The general level of consensus in international society in 1919 was notoriously precarious, and the key

players were determined that no secondary issues should put at risk their own priorities in the peace settlement.

On the other hand, it would be equally rash to overstate the commitment of world society to a programme of racial equality in 1919 in any case. There was, as we have seen, an organized agitation in Japan, and this reflected an incipient and geographically widespread movement determined to raise and press this issue. However, even those supportive sectors of world society were no more able to overturn prevailing concepts of racial hierarchy in 1919, than they were able to dismantle their political manifestations in the continuation of empires, and in their newly developed system of mandates. The bulk of world society was either indifferent to the issue, or explicitly opposed to any doctrine of racial equality.

In all the circumstances, it would have been much more surprising had the principle of racial equality made any greater headway than it did. There was little incentive for international society to be receptive on this seemingly subsidiary issue, when there appeared many more important objectives to be pursued. Nor was there any happy conjunction between the political pressure being applied to the sponsoring state, and its inherent capacity to mobilize international support on behalf of the norm. Whether or not Japan was pushed by international sentiment to raise the issue, or simply had its own national agenda for doing so, it remained diplomatically too weak to be effective. At the same time, organized world-society action in support of racial equality, while demonstrably present, was less potent than in the other cases, as well as catalysing a counter-movement against it on the part of other world-society sectors. There was no beneficent coincidence between the interest of the key international-society player, and vanguard world-society representatives, such as to issue in a successful promotion of the norm. This particular norm had then to await the more desperate circumstances of 1945—by which time both international and world society had become more thoroughly converted to its support—for it to enjoy its formal enunciation.

The contrast with the success of the norm of social justice in 1919 is thus all the more striking. The condition of international society was broadly the same for this norm as for racial equality. However, the major difference in the case of social justice was that this norm was sponsored broadly by the Big Three victor powers, and they had the necessary political clout to ensure that the norm would be written both into the treaties and the League Covenant.

Why did they support the norm? The answer is to be found at two levels. The labour movement had grown appreciably in strength since the beginning of the century, and this was further accelerated by the demands made upon labour during the war. Organized labour by now enjoyed, through the trade

union system, privileged access directly to the highest levels of government, and was able to use its influence to good effect. At the same time, world society pressed also in a more diffuse way, insofar as international society felt exposed to potential social unrest and political upheaval. The norm could be acceded to because of this combination of factors: a highly organized pressure from world society coincided with a mood of compliance on the part of those core victor states in a position to put it into effect. They subscribed to this radically new norm, while also stressing that its attainment was a means to the more traditional goal of seeking international peace.

In this case, international society was persuaded to adopt not only a normative principle, but also a highly significant institutional practice. This came in the form of admission into an international organization of representatives of the nongovernmental sector, an arrangement that has persisted ever since, and has become a model adopted by other international organizations. As far as the legitimacy principle of rightful membership of international society was concerned, this precedent was to be highly consequential.

The study of the adoption of a principle of human rights in the UN Charter in 1945 is informative at several levels, not least as it is the case that has generated a substantial history couched explicitly in terms of the decisive role of civil society groups. During 1944, international society had not expressed any intent to pay overly much attention to this principle, but was subsequently persuaded to change its mind. As we have seen, there is reason to be sceptical of the grandiose version of this account, as it applies to the impact of the US team of Consultants. Nonetheless, we should not, on this basis, dismiss all world-society dimensions: the need, instead, is to stress once again the commonality of interest that developed between international and world society over the issue.

Just as in 1919, in 1945 international society found itself once again dominated by a very small club of leading victor states. Superficially, there was sufficient consensus among these to press through a very substantial agenda of peacemaking business, even if the fissures were already visibly opening beneath them. If we were to say that the human-rights norm was sponsored predominantly by the United States, then there is in this instance a very strong relationship between the exceptional power of the United States and its effectiveness as a norm entrepreneur. Had it been the United States that most wanted human rights in the Charter, it could virtually have insisted upon their inclusion.

Once again, however, the analysis is not quite as straightforward as it might at first appear. If we should doubt the role of the Consultants as 'autonomous agents', there is also some reason to doubt that the norm of human rights found its sponsorship exclusively from the United States. It was supported

equally among other groups of states, principally those from Latin America. In the end, the USSR made its own push for inclusion in the Charter of its preferred references to human rights. In short, various sectors of international society had their own (and quite separate) reasons for supporting this initiative, and, in the context, no major state was prepared finally to come out in open opposition (however reluctant Britain and the USSR had initially appeared). The role of the Consultants specifically has undoubtedly been exaggerated and romanticized. But to downplay their contribution is not to dismiss the contribution of world society more broadly. If the US government was desperately trying to sell the Charter, both to a domestic and to a world public, the fact that it chose to do so by appeal to human rights is highly revealing. If this was a political ploy, it made sense only on the understanding that it would play well with a world audience. If less direct in this version, the role of world society was still present and influential.

Finally, the Charter of Paris came close to stipulating a principle of democracy as the test of rightful membership for international society, at least as far as Europe was concerned. This declaration took place in the aftermath of war, albeit that the war had been a cold one. To this extent, international society was divided into victors and vanquished (as in 1815, 1919, and 1945), and the norm was quite clearly pushed by the leading victor states, while supported also by sections of opinion in eastern and central Europe. Just as there is evidence that the Cold War in general was terminated by the initiatives taken at the inter-state level, so also is there substantial reason to acknowledge that democracy was adopted by the leading Western states as part of their strategy for the stabilization of the post-Cold War order. In that way, it seems quite evident that the sectors of international society that mattered were more than willing to adopt this norm, and there was no particular reason for world society to have to push too hard: the door was already open.

But who had left it open? It was ajar in part because the ending of the Cold War was certainly more than an exclusively inter-state process, wholly under the control of international society's principal players. Gorbachev and Kohl, among many others, found themselves reacting to events, not simply directing them. Beneath the triumphalism in the West, there were palpable degrees of anxiety about the multiple instabilities that might potentially be unleashed. Democracy was to be drafted in as the core principle that would hopefully stabilize European civil society, and not solely the state system that rested precariously upon it. Democracy was also to be the reward bestowed upon these social movements in the former Eastern Europe that had fought their own subterranean campaigns to achieve this goal. Once again, international society had its own agenda for enunciation of this norm at this time, but its adoption is attributable to the fact that this coincided with the strong

preferences of significant world-society sectors as well. International society sought to make use of democracy for its own purposes, but could not retain full control over the norm that it had chosen to sponsor.

Do any general conclusions emerge from this survey overall? It would seem that several different constellations of relationships have contributed to the successful adoption of a new norm, rather than any single dominant prototype. At least four models can be discerned. First is where there is a strong world-society constituency, able to mobilize internationally, but particularly able to influence the leading and most powerful states. The cases of the slave trade, and the inception of the ILO, best exemplify this situation. A second version is close to this, but with the significant addition that the leading state(s) encouraged world society to make its presence felt, for reasons that went beyond the value of the norm itself. The adoption of human rights in 1945 is the best case in point. A third model is where both international society at large, and much of world society, developed a shared interest in adopting the norm, albeit for different reasons. The Hague meetings, and the Charter of Paris, both illustrate aspects of this situation. Fourthly, we have the negative model. This is represented in the case of the failure to support racial equality. The key characteristics of this situation were a deeply divided and not particularly potent world-society position, on the one hand, and sponsorship by a major state that was not itself sufficiently powerful within international society to carry the day.

What seems not to have been a decisive factor either way is the degree to which the sponsoring states had other, and more tangible, interests in promoting the norm. There was a widespread perception in 1815 that Britain had its own tacit agenda, but this in the end was less important than the ability of Britain to pull the other levers necessary to get its declaration through, even if this was subsequently to become a factor in its desultory implementation. In 1899, there was much incredulity about the Imperial Rescript, and about the motives that underlay it. In this case, however, scepticism about Russian motives was peripheral to the outcome, as Russia was the sponsor of the meeting, not of the norm that emerged from it. Purely as a norm, the appeal to the public conscience enjoyed no particular state patron, and emerged more by accident than design in an attempt to sway world opinion. Japan, as we have seen, had its own priorities in 1919, but its demands were resisted not for this reason, but more so because it did not have the leverage to bring around the principal sources of resistance. On the ILO, most state supporters were playing their own political games, but this did not matter, as there remained sufficient consensus among the Big Three to ensure its adoption. Similarly, in 1945 and 1990, the fact that other interests were involved mattered little to the final outcome, as the norm was simply pushed through in any event by

its principal sponsors. In general, therefore, it would seem that the nature of the interests of the sponsoring state(s) was not decisive for the level of support generated on behalf of a norm.

Of direct concern to the subject of this book is the substance of the normative arguments that came into play. Here, we must be careful to distinguish between two different contexts: *why* the norm was adopted in the first place, and *how* it constrained thereafter. First, it should by now be clear that the normative force of the argument was not by itself the sole determinant of whether or not international society would be won round to adopting the norm. We have encountered too much evidence to the contrary—such as that the norm was supported by material inducements in 1815, or that strong arguments failed to move international society over racial equality in 1919—for this to stand as a valid interpretation. However, this most assuredly does not mean that the normative content of these arguments can be readily dismissed. On the contrary, the norm would have little meaning in separation from the burden of argument that came to be attached to it. It was through this ongoing dialogue that the contours of international and world society have been shaped, and the degree of integration between them brought into effect. The substance of these arguments may not have been decisive in changing minds at the time, but it shaped the identities of international and world society thereafter: once publicly affirmed, arguments became that much more difficult subsequently to repudiate.

This must suffice as a brief distillation of the principal historical findings. How, in turn, does this help to consolidate the theoretical framework of the study, and contribute towards future theoretical developments in this field? What runs through many of the foregoing assessments are the fine nuances to be discovered in the various relationships between international and world society. Neither was wholly proactive, nor wholly passive, and our main interest lies precisely in the balanced quality of the relationship at any one moment. A major question that is raised by these reflections is the extent to which the normative development of international society has occurred as a result of the coordinated push from the ‘core states in alliance with their own civil society actors’ (Dunne 2007). The troubling thought here is that international society has been highly selective in its adaptation to new norms, and more receptive to those favoured by the Western elite of powers. These latter, in turn, have evoked world-society groupings to push their own agenda. Once again, we confront the problematic ‘autonomy’ of world society, and the implication that it has been the secondary instrument, rather than the principal agent, in the unfolding of these events. This requires a final consideration of the main theoretical agenda of the book.



INTERNATIONAL LEGITIMACY AND THEORIES OF  
INTERNATIONAL SOCIETY

The book has been mainly concerned with the evolution of the practice of international legitimacy within the framework of international society. What it has injected into this discussion is an engagement focused upon the role of world society. In so doing, the book has brought together two bodies of theoretical writing that claim an interest in international society. The first is the English School, and the second is the constructivist literature on international norms (Reus-Smit 2005). What both share is a view of inter-state relations as being shaped by common understandings and values that impact upon state behaviour. Theoretically, therefore, the book has made a contribution to the explicit dialogue between the English School and constructivism. '[I]t has become increasingly apparent that English School and constructivist writers have much in common,' it has been remarked, 'in particular their belief that states form an international society shaped by ideas, values, identities, and norms that are—to a greater or lesser extent—common to all' (Bellamy 2005b: 2). How has a focus upon the role of world society helped us to think about the relationship between these two bodies of theoretical work?

International legitimacy, it has been contended, is that equilibrium point around which international society develops a consensus, accommodating as best it can the incongruent norms to which it is more or less formally committed. When we say that some of the norms upon which international society draws find their source in world society, this has been intended in two separate senses throughout the book. In the first sense, it is a description of political agency, and refers to the activities of various world-society actors who seek to place a particular norm on the international agenda. In the second sense, it means something more than this, namely that world society has been recognized as the rightful maker of a claim, and international society owes a duty to its members. This refers to a process of normative integration between international and world society. The major subject for review here is the nature and significance of this latter process, and its contemporary relevance for international legitimacy.

It has been suggested that 'the point will come when the development of international society and world society will be inextricably intertwined. The evolution of international society and world society will proceed simultaneously on the basis of a common set of processes' (Little 1998: 68). To which kind of processes might this refer? This might mean simply the development of a common field of political action, where state and non-state actors mingle freely. It might additionally mean that the normative development of international society is ultimately contingent upon its absorption of norms that it

then comes to share with world society. The critical development for this study has been the latter.

This takes us back to Clark's plea for systematic recognition of the role of non-state actors in international society's development of norms. 'What is needed', she enjoined, 'is a deeper understanding that accounts for how norms gain authority and how normative authority interacts with the motives of state and nonstate actors' (Clark, A. M. 2001: 27). This is indeed the nub of the matter. The issue is not simply which agents are able to push the hardest in support of their particular agenda, but how specific norms 'gain authority'. As has been noted of the role of world-society sectors in the Land Mines campaign of the 1990s, 'transnational civil society not only exists as a community of political engagement in world politics but also has a meaningful impact acting through networks in teaching governments what is appropriate to pursue in politics' (Price 1998: 639). On the face of it, there are certain norms that international society has no 'interest' in embracing. However, in accordance with the central suggestion of the norm literature reviewed earlier, this paradox is best resolved by appeal to the possible acquisition of new identities, issuing in new preferences. In conformity with that suggestion, the key argument of this book is that a critical identity shift takes place at the interface of international and world society, and is reflected in the changing identity of international society. In effect, this is best understood as a process of social integration, whereby specified norms become common to both. Any claim that two societies come to share norms is intelligible only inasmuch as the two have, in certain respects, merged into one: only those actors that participate in a common society are able to share norms in this way.

This requires us to go one step further than some of the extant literature. We can plainly concur with the suggestion that 'socialization presupposes a society' (Risse and Sikink 1999: 11). Internationally, it is claimed, the source of this socialization is the society of states. Accordingly, 'the concept of socialization may be useful in understanding how the international society transmits norms to its members' (Risse and Sikink 1999: 11–12). However, if we are to take the associated claims about norms, identities, and interests seriously, we cannot simply break into the process in this way, as if all other elements are held constant. International society does not remain static, and does not socialize in endlessly reproductive ways. It is itself dynamic, and learns what it wants from a variety of sources. These include the norms transmitted to it from world society, and which it has been persuaded to adopt. International society, in turn, then acts as a purveyor of new norms to its social constituents, acting as an intermediary on behalf of world society. This process of normative assimilation is crucial to the social integration

that occurs in tandem, and which thereafter renders any rigid demarcation between international and world society increasingly problematic. Otherwise expressed, what is missing from the above-mentioned depiction of the role played by international society in the socialization of its own members is any recognition of a prior development: international society has already, in some measure, been 'socialized' in turn by world society. However, as Risse and Sikkink were at pains to insist, socialization can take place only within the bounds of an already existing society. This must then amount to an assertion of the increasing tenuousness of the distinction between the two respective societies, or at least to an acceptance of a considerable degree of overlap, or merger, that has taken place between them.

This compels us, in the end, to dissent from the framework within which one prominent historian has treated this subject. In his survey of the development of a 'global community', Iriye offers the following parameters for his discussion: 'That community has tended to develop with its own momentum, *on a separate level of existence from the international system defined by sovereign states*' (Iriye 2002: 209, emphasis added). This asserts the claim too strongly, and, if taken literally, would make much of the history in this book unintelligible. World society (or the global community in Iriye's terminology) would have been unable to make the inroads into international society that it has, both with regard to its political activism, and even more so with respect to its normative claims, had such a degree of autonomy and separation been maintained in practice. It is only in proportion to its relative abandonment of a 'separate level of existence' (and in return for international society's reciprocal concession in the same respect), that world society has been able to make such headway as it has.

Accordingly, fully to understand the manner in which international legitimacy has been shaped by the intrusions of world society, we need to develop an historical and theoretical model of progressive integration, rather than one of apartheid, as regards its relationship with international society. That integration has occurred, most demonstrably, at the level of political action, as world-society actors have come to play increasingly influential roles on the international-society stage. This was true in the mid-nineteenth century when it was non-state initiative that drove the establishment of the International Committee on the Red Cross, and the Geneva Conventions. These were instigated by the actions 'of a few morally committed private individuals' (Finnemore 1996a: 86; Finnemore 1999), but issued in a set of internationally agreed instruments. It was to be just as true at the end of the twentieth century with regard to the international campaign to ban landmines. The Ottawa Treaty, it has been observed, 'was a landmark in demonstrating what an international nongovernmental organization could accomplish in partnership

with governments in bringing about a change in the ways in which nations conducted themselves' (Iriye 2002: 162–3). What these examples, and the cases in this book, clearly demonstrate is the gradual, if still intermittent, interlocking of world and international society in a common field of political action.

It is the stronger claim that is the more controversial, and this is that the two societies have become progressively more integrated in a normative sense as well. This takes us beyond the limited conception that, within international society, 'the basic political and legal frame is set by the states-system, with individuals and TNAs being given rights by states within the order defined by interstate society'. In this modest version, 'individuals and TNAs are *participants* in international society rather than *members* of it' (Buzan 2004: 202). In contrast to this, the present argument forces us to consider an at least partial merger of world society into international society: to claim that actors share norms entails that they are all *members* of the same society.

There is equally good reason, on the same grounds, to dissent from Hedley Bull's characterization of world society as merely an 'ideal' in its avowal of the norms of human rights. He warned that 'we court great dangers if we allow ourselves to proceed as if it were a political and social framework already in place' (Bull 1984: 13). In this dismissal, Bull too readily conflates the social and political frameworks. Insofar as world society shares norms of human rights, it is *de facto* a society, and it is unhelpful to qualify this by assigning it to the realm of the 'ideal'. This world society assuredly does not possess its own independent political system, and hence continues to be parasitic upon international society for effective delivery of its programme. The absence of its own political machinery is not, however, tantamount to the lack of a social framework altogether.

Accordingly, we should not discount the notion of a world society, constructed on the basis of shared norms, simply because of its dependence upon political machinery supplied elsewhere. Even more is this so insofar as world society's norms have now penetrated deeply into international society. Politically and normatively, these two societies have become increasingly interlocked with each other. However, given world society's continuing dependence upon international society's political instruments, neither is there any reason to suggest that displacement is taking place. It remains very much the case that 'norm entrepreneurs and the organizations they inhabit usually need to secure the support of state actors to endorse their norms' (Finnemore and Sikkink 1998: 900). This is the only route by which those norms can be institutionalized and legally protected. There is sufficient 'reciprocal benefit', as one analyst sees it, 'for states and transnational networks of societal actors to continue to co-exist' (Peterson 1992: 388). Hence, there is no place for apocalyptic

visions of a transition to world society, entailing a wholesale displacement of the international.

Once again, there is a danger that we fail to accept the full logic of the argument. If norms foster identities, and thereby new interests, both for states and for international society, there must be considerable fluidity in *all* the elements involved. There remains, nonetheless, a marked tendency to reify, or ossify, the international-societal component in any such evolution. The book started out with the puzzle of why international society appeared, from time to time, to have internalized norms that, seemingly, were against its own interests, or pushed it into areas not of its primary concern. The result of its so doing has been depicted in one account, as follows:

the norms embodied by NGOs may not represent any particular state's interests . . . The effect of this is that many NGOs are likely to contain norms that are otherwise not represented in the statist conception of the international system. In particular, these may include norms such as environmental norms or human rights norms, which are otherwise likely to remain unrepresented because they are opposable *against* states . . . [The following articles] . . . highlight the role played by NGOs in the transmission of international norms, and raise the question of the degree to which this role can be accommodated by the traditions of the international order.

(Mills and Joyce 2006: 17)

There is much that is unexceptional in this presentation. It graphically portrays the need for entrepreneurs from outside international society to help bring about some forms of normative innovation, and emphasizes that international society, frequently, has no 'interest' in adopting such norms. At the same time, it appears to hold part of the equation constant. When the authors speak of the norms being opposed to states, and in tension with the traditions of international society, these are represented as static. However, the whole point about international society's absorption of such norms, where this has indeed taken place, is that this is already *prima facie* evidence of change: the noted opposition has already softened, and the hitherto existing traditions have been modified, by dint of this very acceptance. In short, there is a danger that we underestimate the capacity for shifts in the identity of international society, and hence for concomitant changes in its interests. It is contradictory to suppose that, when it has already undergone some degree of transformation, the prior polarities and oppositions between international society and the new norms should remain exactly as they were before: if international society has changed, the oppositions have modified as a result.

In short, this helps us to see the relationship between international and world society in a new light. Some have questioned the continuing utility of the distinction between these two concepts. Bellamy (2005c: 286–7) reports

the feeling that we should 'eschew the international society-world society divide in favour of a conception of either international society or world society that incorporates different types of actors operating at different levels'. He is not fully persuaded by such a move, and ends instead with the injunction that 'there is a need to reformulate the concept of international society and rethink its relationship with world society'. This is exactly what the present book has attempted to do. It sees virtue in retaining a separate concept of international society to map the principal contours of the inter-state terrain. What it adds to that concept is its inherent historicity, rather than any imagined static quality. Moreover, and crucially, this historicity has been in part of function of the activities of world society—separately conceived, but operationally never wholly distinct—as it has sought to inform international society's normative structures in innovative ways. Were we to allow one concept to swallow the other, the nuances of this normative engagement would be lost, as would be the language needed to convey the rich history of the encounters between these two societies at a series of formative moments.

Where does this leave the theoretical encounter between constructivism and the English School? These are by no means identical theoretical approaches. There are many constructivists who feel uncomfortable with the language of international society, let alone with that of world society. By the same token, some representatives of the English School would dissent from the methodological self-consciousness of constructivism, and wish to qualify its theoretical commitment to identity as the principal source of social action. That said, there is a substantial theoretical area common to the research agenda of each. This extends to the relationship between international and world society. In short, this book confirms the claim made by Reus-Smit (2005: 91). 'The issue is not whether actors in world society are displacing the society of sovereign states', he avers, 'it is whether they are affecting its basic principles'. They indeed do so, and it is this theoretical framework created of the congruence of English School and constructivist literature that best allows us to capture the essence of this process.

This book has charted one aspect of the relevant terrain. Instead of simply repeating the axiom that international society inculcates norms into its members, it asks the questions *which* norms does it prefer, and *how* does it come by those in particular. The answer provided is that some of these preferences emanate from encounters with world society. While there is an irreducible softness to the concept of world society, the prime justification for persisting with it is that its traces show up in the normative accretions of international society over time. There is no obvious alternative concept that offers any more convincing a framework for understanding the series of normative encounters described in this book.

There are two final, and inter-connected, points that need to be made, even if their implications must ultimately be left open. The first is the already encountered suggestion that a dynamic world society is ultimately parasitic on the particular qualities of international society to sustain it. In the case studies, we have explored the suggestion that it is state actors that have encouraged civil-society groups to act on their behalf. More generally, there is the widely held view that 'liberal international societies empower the transnational domain' (Buzan 2004: 260). That is to say that there is likely to be a degree of convergence between the ideological objectives of world society, and the nature of the international society in which it finds itself embedded. There are elements of such an appraisal that resonate with some of the findings in the case studies. The big issue this raises is whether, should the complexion of international society change, there might then develop a greater divergence between it and world society. This could easily create a more explosive chemistry. This is the root of Dunne's concern that a particular kind of international society has empowered, preferentially, certain kinds of world-society groups, and the norms they hold dear. There can be no assurance of such a benign conjunction in the future, and we should not extrapolate into the future on the basis of experience with the Western-dominated international society of the past two centuries.

This suggests a second perspective relevant to the findings of this book. Readers might object that it has too many overtones of a morality play. The norms with which the book has engaged have all been 'good'. By dint of association with them, the image of world society to emerge in these pages could be thought too uniformly progressive: world society seems not to sponsor 'bad' norms. This is far from the intention of the argument. World society indubitably has its dark side as well, and there has been no suggestion to the contrary. World society seldom speaks with a single voice, and certainly has been the source of views hostile to the norms considered in this book: sectors of world society remained supportive of the slave trade, opposed to racial equality, sceptical of certain conceptions of human rights, and openly critical of liberal variants of democracy. This much is self-evident. However, the case that world society is not wholly unified in its normative positions falls some way short of a denial that it can still have a powerful normative impact on international society. The norms traced in this book have been important for the development of international society, whether they are in any absolute sense 'good' or not. Whether world society, let alone international society, will continue to be committed to them is an entirely open question. The dark side of this argument, if its premises are accepted, is that world society must retain considerable potential to encourage international society in quite different, and possibly less appealing, normative directions in the future.

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