

# The Seeds of Peace and Justice

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## Abstract

*Some positive developments in international law had humble beginnings. They started from a small group of idealists who wanted to change the world for the better. Once their ideas gathered momentum, they got the support of people with power and transformed the world. State after state followed each other in a cascade toward improving international law. The purpose of this paper is to investigate the conditions that are beneficial for the initial germination of ideas with the potential to positively revolutionize international law. By using a series of case studies focused on the initiation of major transformations that improved international law, this paper attempts to recommend how national and international settings should be arranged to support such transformations.*

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## Table of Contents

I. Introduction.....	477
II. The Quest to Make War Illegal.....	478
III. Establishing the Crime of Genocide .....	482
IV. Creating the International Red Cross .....	488
V. Analysis: The Individual-Elite-Public Triangle .....	491
A. The Money-Time for Idea Growth.....	491
B. Individual.....	494
C. Elite.....	497
D. Public.....	499
VI. Conclusion.....	502

## I. INTRODUCTION

*The Internationalists* by Oona A. Hathaway and Scott J. Shapiro is a book with a revolutionary thesis.<sup>1</sup> The book argues that a few idealists with no governmental power or resources managed to initiate a change that ended with the prohibition of war.<sup>2</sup> These people started a process that led to the acceptance of the Kellogg-Briand Pact, which, for the first time, attempted to make war illegal.<sup>3</sup> An even more radical claim of the book is that this pact, usually considered nothing but a failed experiment, actually initiated a new era in international law that bases world diplomacy on the foundations of peace.<sup>4</sup>

The question asked by this paper is the following: is the development described by Hathaway and Shapiro a one-of-a-kind historical event, or is it possible for a few individuals with limited means to launch new developments that fundamentally change international law and international diplomacy? A series of case studies is examined in this paper to conclude that even the biggest changes in international law usually have very humble beginnings. They can be traced back to one individual or a small group of individuals with a passion for changing the world.

Having established that people without material power have the capacity to change the world, the main goal of this paper is to illustrate what conditions make such developments possible. What conditions are required to foster the ability of individuals to make a difference and develop international law?

The case studies that this paper examines have been covered by a voluminous literature. The key added value of the paper is placing them next to each other in an attempt to synthesize the larger lessons that they can teach about how to initiate and facilitate positive changes in international law.

Part I briefly describes the story of the so-called “Internationalists” mentioned above, who collaborated closely towards the goal of ending war. Part II describes the one-man struggle of Raphael Lemkin to establish the international crime of genocide. This story was depicted, among other places, in the popular book *East West Street* written by Philippe Sands.<sup>5</sup> Part III describes the classical

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<sup>1</sup> OONA A. HATHAWAY & SCOTT J. SHAPIRO, *THE INTERNATIONALISTS: HOW A RADICAL PLAN TO OUTLAW WAR REMADE THE WORLD* (2017).

<sup>2</sup> *See id.* at xxi.

<sup>3</sup> *See id.* at x–xi, xiv–xv, xxi.

<sup>4</sup> *Id.* at xiii–xv, xviii.

<sup>5</sup> PHILIPPE SANDS, *EAST WEST STREET: ON THE ORIGINS OF “GENOCIDE” AND “CRIMES AGAINST HUMANITY”* (2016).

story of the birth of the International Committee of the Red Cross (ICRC) from the spirited initiative of Henry Dunant. Part IV provides an analysis of the conditions under which struggles of this kind are likely to succeed. Part V concludes.

## II. THE QUEST TO MAKE WAR ILLEGAL

War has always been a part of human history. What would strike current readers as odd, however, is that through most of human history war was considered legal.<sup>6</sup> Since antiquity, there have been rules that regulated some aspects of the conduct of war, forbidding certain weapons and certain military techniques, for example.<sup>7</sup> But war itself, despite involving the killing of other human beings on a large scale, was not considered illegal.<sup>8</sup>

Hugo Grotius, probably the most famous international law scholar of all times, championed the idea that countries are allowed to fight other countries to

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<sup>6</sup> HATHAWAY & SHAPIRO, *supra* note 1, at xv–xvii (describing the pre-1928 “Old World Order” where war was both sanctioned and rewarded), 10–11 (discussing just war theory). *See* Ryan Greenwood, *War and Sovereignty in Medieval Roman Law*, 32 L. & HIST. REV. 31, 41–43, 60–63 (2014) (tracing the intellectual contributions of medieval Roman jurists who upheld a secular right of war, whereby war was considered a legal right of sovereigns); Mary Ellen O’Connell, *The Just War Tradition and International Law against War: The Myth of Discordant Doctrines*, 35 J. SOC’Y CHRISTIAN ETHICS 33, 34–39 (2015) (exploring the historical process through which law supplanted the authority of the pope and Holy Roman emperor in governing war); YORAM DINSTEIN, *WAR, AGGRESSION AND SELF-DEFENCE* 78–79 (5th ed. 2011) (examining the nineteenth-century legal regime that permitted states to resort to warfare without breach of international legal obligations).

<sup>7</sup> HATHAWAY & SHAPIRO, *supra* note 1, at 35–42 (describing past rules of the “Old World Order” governing when and how to start wars). *See id.* at 71–73 (highlighting the use of poison, treacherous assassination, and rape as three principal war crimes recognized by Grotius and the “Old World Order”); *id.* at 75–77 (discussing the Principle of Distinction which outlaws the targeting of civilians during war); *id.* at 77 (discussing different international treaties that regulated conduct during war, such as arms prohibitions). *See also* Helen M. Kinsella, *Gendering Grotius: Sex and Sex Difference in the Laws of War*, 34 POL. THEORY 161, 171 (2006) (chronicling the development of rape as a war crime amongst “better nations” as conceived by Grotius); Frits Kalshoven, *Grotius’ Jus in Bello, with Special Reference to Ruses of War and Perfidy*, in REFLECTIONS ON THE LAW OF WAR 327, 331–32 (2007) (explaining that poison and assassination were methods deemed too dangerous to permit in warfare, as they posed unacceptable risks that could extend indiscriminately to both combatants and non-combatants).

<sup>8</sup> HATHAWAY & SHAPIRO, *supra* note 1, at xvi (highlighting the paradox that the “Old World Order” sanctioned mass killing in war while criminalizing individual homicide); *id.* at 61–64 (discussing a soldier’s license to kill during war). *See id.* at xv–xvii, 10–11.

enforce legal rights.<sup>9</sup> This means that war is legal as long as it is conducted within certain confines.<sup>10</sup>

According to Grotius, countries as well as other groups of people have rights.<sup>11</sup> In order to defend these rights, countries can legally engage in war.<sup>12</sup> The problem is that the international system lacks a perfect mechanism for establishing the rights of each country and for determining when these rights are violated.<sup>13</sup> This could mean that third parties would never know who is the rightful owner of goods or territories acquired through war because they would not know whose rights were violated prior to the conflict.<sup>14</sup> Grotius proposed a solution to this problem: success in the war would determine who the rightful owner is.<sup>15</sup> A country that physically controls goods or territory by the end of the hostilities would become their legal owner.<sup>16</sup>

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<sup>9</sup> *Id.* at xix–xx (detailing Grotius’s philosophy of war as a morally legitimate mechanism for states to enforce their legal rights against one another and illustrating his impact on international law and the “Old World Order”). *See id.* at 10–11, 27–30 (detailing Grotius’s influence on international law with his theory of rights enforcement through war); *id.* at 35–37 (demonstrating that states must provide a legal justification before entering into a war); *id.* at 32–35 (applying the Mexican-American War as an example to demonstrate how states establish their legal right to enter into wars via justifications of rights violations); *id.* at 43 (enumerating rights violations that led to previous wars); *id.* at 70 (explaining Grotius’s theory of combatant immunity from criminal liability for killing during war). *E.g.* David Kennedy, *Primitive Legal Scholarship*, 27 HARV. INT’L L.J. 1, 87–88 (1986) (discussing Grotius’s theory of rights and justice whereby law creates enforceable rights that states may protect through force).

<sup>10</sup> *See* HATHAWAY & SHAPIRO, *supra* note 1, at xvii (contrasting the rules of the “Old World Order” with the “New World Order”); *id.* at 35–42 (describing past rules of the “Old World Order” governing when and how to start wars); *id.* at 71–73 (discussing war crimes); *id.* at 75–77 (discussing the Principle of Distinction which outlaws the targeting of civilians during war); *id.* at 77 (discussing different international treaties that regulated conduct during war, such as arms prohibitions).

<sup>11</sup> *See id.* at 21–23 (describing Grotius’ conception of rights, and to whom they apply, as egalitarian and deriving from the laws of nature); *id.* at xix–xx, 10–11, 32–35, 35–37, 43–44, 70. *See also* Kennedy, *supra* note 9, at 87–88.

<sup>12</sup> *See* HATHAWAY & SHAPIRO, *supra* note 1, at xix–xx, xvii, 10–11, 27–30, 32–35, 35–42, 70, 71–73, 77.

<sup>13</sup> *Id.* at 11 (noting that sovereign states, recognizing no higher authority such as a court, were therefore compelled to resort to war to redress wrongs); *id.* at 14–15 (illustrating the scarcity of international institutions to resolve interstate disputes); *id.* at 55 (articulating the impossibility of differentiating between unjust and just wars).

<sup>14</sup> *Id.* at 14–17 (discussing the legal uncertainty that arises from determining clean title in the absence of a judicial system).

<sup>15</sup> *Id.* at 23–26 (articulating the “Might is Right” principle whereby states acquire legal rights and titles through success in war).

<sup>16</sup> *Id.* at xv, 10–11, 23–27 (describing how the conquered territory relinquished all sovereignty over its subjects and public property to the victorious state).

Hathaway and Shapiro explain the world according to Grotius as a world in which the “Might is Right” principle applies.<sup>17</sup> Both sides of the conflict claim they are right.<sup>18</sup> There is no way to determine who is telling the truth.<sup>19</sup> So, the best thing any third party can do is to accept the result of war as establishing a binding legal title in favor of the more powerful military force.<sup>20</sup> This makes war legal and all the benefits it gives to the victorious side are legitimately kept.<sup>21</sup>

Grotius published his masterpiece, *The Law of War and Peace*, in 1625—nearly three hundred years before a war so vicious and brutal it would trigger a series of events that would forever change the laws of war. That war would later be called World War I. The carnage it involved led several individuals of unique energy and vision down a path that would eventually make the conduct of war itself illegal.

What is so remarkable about the tale relayed by Hathaway and Shapiro regarding the transformation towards a world in which war is illegal is how humble the origins of this transformation were. One of the leading instigators of the change, a so-called “internationalist” to use the terminology of Hathaway and Shapiro, was a simple corporate lawyer from Chicago named Salmon Levinson.<sup>22</sup> Abhorred by the sheer waste and stupidity of war, he set out to ban it altogether.<sup>23</sup>

Levinson started a movement to end war.<sup>24</sup> He recruited to his aid people from the intellectual elite, like his friend the philosopher John Dewey,<sup>25</sup> and people from the political elite, like Senator Philander C. Knox.<sup>26</sup> He founded the American Committee for the Outlawry of War<sup>27</sup> and published a pamphlet,<sup>28</sup> in which he called to outlaw war in hundreds of thousands of copies.

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<sup>17</sup> *Id.* at 23–27.

<sup>18</sup> *Id.* at 24–25 (noting that because opposing belligerents each believe they are the just party, there will always be conflicting narratives on the right outcome).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 23–27, 55 (referencing the quotation “Might must be Right, even if it is wrong”).

<sup>21</sup> *Id.* at xv, 10–11, 23–27. *See id.* at xix–xx, 10–11, 27–30, 32–35, 55.

<sup>22</sup> *Id.* at 106–08 (introducing Levinson as an “unlikely revolutionary” committed to ending the ubiquity of war).

<sup>23</sup> *Id.* at 108 (recounting Levinson’s 1917 correspondence with financier Jacob Schiff, characterizing war as a global disease that enables criminal nations to justify greed and aggression).

<sup>24</sup> *Id.* at 113 (recounting the development of the outlawry movement).

<sup>25</sup> *Id.* at 113–115 (examining Dewey’s influence on Levinson and the Outlawry movement, noting his progressive conception of human nature as flexible, enabling societies to transcend aggressive instincts and institutionalize peace).

<sup>26</sup> *Id.* at 110–13 (detailing Knox’s opposition to the League of Nations based on his fear that membership would compel the U.S. to participate in unwanted foreign conflicts).

<sup>27</sup> *Id.* at 113.

<sup>28</sup> *Id.* at 113–15 (exploring the creation and dissemination of Levinson’s 1921 pamphlet, *Plan to Outlaw War*, which outlined a framework to (1) abolish the use of war as a dispute-resolution mechanism,

At the same time, James Thomson Shotwell, a history professor from Columbia University, was initiating his own crusade to end war.<sup>29</sup> His strategy was very different from Levison's, and it involved working directly with the recently founded League of Nations.<sup>30</sup> Shotwell was trying to create a treaty called the Geneva Protocol.<sup>31</sup> This treaty made any state that started a war, without submitting to international dispute settlement, an aggressor, and every member of the treaty would cease all commerce with the aggressor.<sup>32</sup> This initiative was eventually rejected when the United Kingdom refused to ratify the protocol.<sup>33</sup> It also created a personal rivalry between Shotwell and Levinson, two visionaries trying to pursue the same vision in different ways.<sup>34</sup>

Shotwell then set his aims higher and approached Aristide Briand, the French Foreign Minister and winner of the Nobel Peace Prize.<sup>35</sup> Briand consented to offer an agreement for outlawing war between France and the United States, which did not get much attention from the press.<sup>36</sup> This proposal, however, got the attention of Secretary of State Frank Kellogg, who was under continuous pressure by Levinson and his collaborators to act on it.<sup>37</sup> Kellogg decided to turn the proposed agreement between France and the U.S. into a declaration of all major world powers renouncing war.<sup>38</sup> Only then was the time ripe for diplomacy between the highest echelons of foreign countries. This diplomacy concluded with the creation of the Kellogg-Briand Pact, signed by fifteen countries in Paris in 1928 and entered into force upon ratification by all the signatories in 1929.<sup>39</sup>

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(2) criminalize offensive warfare as a public offense, (3) reserve the right of defense against attacks as the only legitimate exception, and (4) prohibit forcible territorial gains).

<sup>29</sup> *Id.* at 115–19.

<sup>30</sup> *Id.* at 117 (noting Shotwell's negotiations with the League of Nations in the development of his plan to enforce the outlawry of war, which would later be known as the "Geneva Protocol"), 114–15 (discussing Levinson's proposal to decentralize international enforcement and empower citizens to participate in the outlawry of war through national plebiscites).

<sup>31</sup> *Id.* at 117–19 (discussing the development of the Geneva Protocol).

<sup>32</sup> *Id.* at 119. *Acord* Protocol for the Pacific Settlement of International Disputes, Oct. 2, 1924, League of Nations O.J. Spec. Supp. No. 26, at 191 (not in force) ("Every State which resorts to war in violation of the undertakings contained in the Covenant or in the present Protocol is an aggressor.").

<sup>33</sup> *Id.* at 118–19.

<sup>34</sup> *Id.* at 119 (discussing tensions that arose between Shotwell's and Levinson's factions in the peace movement following Dewey voicing his allegiance to Levinson).

<sup>35</sup> *Id.* at 120.

<sup>36</sup> *Id.* at 121 (discussing Briand's proposal for France to partner with the U.S. to outlaw war).

<sup>37</sup> *Id.* at 122–23.

<sup>38</sup> *Id.* at 124–28.

<sup>39</sup> *Id.* at 128–29.

The bulk of Hathaway and Shapiro's book is dedicated to arguing that the Kellogg-Briand Pact did make a difference, even though the world was dragged into a conflict more barbaric and murderous than any other only ten years after the creation of the treaty condemning war.<sup>40</sup> This treaty signaled a sea-change in the way war and its results are considered. War was no longer a legal way to acquire territory and make policy.<sup>41</sup>

Contending with Hathaway and Shapiro's argument is not the goal of this paper. Instead, the goal of this paper is to focus on the processes that initiated the big change culminating in the Kellogg-Briand Pact. Long before high politics was involved and people with formal power and legal authority lent their support to the initiative to outlaw war, the movement started from the behavior of people with no political power whatsoever.

People like Levinson and Shotwell, their friends, their followers, and their initial allies, acted as so-called "norm-entrepreneurs"—they attempted to change the way society operated and the norms that it considered legitimate by methods of persuasion alone.<sup>42</sup> Unable to promise anything besides moral recognition and support, they nevertheless managed to sway powerful political forces and to change the world.

### III. ESTABLISHING THE CRIME OF GENOCIDE

In 1948, the United Nations General Assembly endorsed the Genocide Convention.<sup>43</sup> The convention entered into force in 1951 after being ratified by

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<sup>40</sup> *Id.* at xiii, xviii (establishing the book's argument that although the Kellogg-Briand Pact did not effectuate the end of war, it was nonetheless a crucial, transformative trigger that, by eliminating the "Old World Order's" core principle, initiated the creation of a new world order).

<sup>41</sup> *Id.* at xvii–xviii (highlighting how new practices of war, such as economic sanctions, negotiations, and trade talks, largely replaced previous conflict resolution mechanisms such as aggressive wars and gunboat diplomacy).

<sup>42</sup> See Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT'L ORG. 887, 896–99 (1998) (defining "norm-entrepreneurs" as actors who work to change social norms through persuasion and advocacy, analyzing their role in transforming international legal and political frameworks). See also Cass R. Sunstein, *Social Norms and Social Roles*, 96 COLUM. L. REV. 903, 909, 929–33 (1996) (examining how norm-entrepreneurs use persuasive strategies to shift societal acceptance of particular behaviors and legal principles).

<sup>43</sup> Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, S. Exec. Doc. O, 81-1 (1949), 78 U.N.T.S. 277 (entered into force Jan. 12, 1951) [hereinafter Genocide Convention]. See SANDS, *supra* note 5, at 377 (discussing the General Assembly's adoption of the Genocide Convention on December 9, 1948).

twenty countries.<sup>44</sup> In 2025, there are 153 parties to the Genocide Convention.<sup>45</sup> The crime of genocide includes killing members of a group or taking several other measures that harm with the intention to destroy a national, ethnic, racial, or religious group.<sup>46</sup>

Genocide is widely recognized as the “crime of crimes.”<sup>47</sup> It constitutes an *erga omnes partes* violation, which gives every member of the Genocide Convention the legal possibility to start a case at the International Court of Justice against any other member state.<sup>48</sup> Additionally, the crime of genocide is recognized in Article Six of the Rome Statute of the International Criminal Court, exposing individuals who commit this crime to international prosecution.<sup>49</sup>

Today, the crime of genocide is at the forefront of combating atrocities worldwide. But it was not always this way.<sup>50</sup> In fact, genocide is a recent invention that managed to gain its unique status in the international laws of war due to the

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<sup>44</sup> Genocide Convention, *supra* note 43.

<sup>45</sup> See United Nations Treaty Collection, Chapter IV Human Rights, Geneva Convention, <https://perma.cc/7D9N-6XY9> (last updated June 25, 2025) (last visited Oct. 3, 2025) (enumerated list of parties and signatories to the Genocide Convention).

<sup>46</sup> See Genocide Convention, art. II, *supra* note 43.

<sup>47</sup> See SANDS, *supra* note 5, at 178 (recounting a memorandum Lemkin sent to President Roosevelt in which he described the criminalization of mass killing as the “crime of crimes”).

<sup>48</sup> See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gam. v. Myan.), Judgment, 2022 I.C.J. 3, ¶ 107 (July 22) (concluding that all states parties to the Genocide Convention have obligations *erga omnes partes* to bring cases that “ensure the prevention, suppression and punishment of genocide”); Alaa Hachem, Oona A. Hathaway & Justin Cole, *A New Tool for Enforcing Human Rights: Erga Omnes Partes Standing*, 62 COLUM. J. TRANSNAT’L L. 259, 261–64, 280–85 (discussing Gambia’s suit against Myanmar for genocidal acts against the Rohingya, in which the International Court of Justice held that as a State party to the Genocide Convention, Gambia had a common interest in preventing genocide by Myanmar); Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (S. Afr. v. Isr.), Provisional Measures, 2024 I.C.J. 3, ¶¶ 33–34 (Jan. 26) (concluding that South Africa has standing to bring claims against Israel for genocidal acts against Palestinians in compliance with its obligations *erga omnes partes*). See also Genocide Convention, art. VIII, *supra* note 43.

<sup>49</sup> Rome Statute of the International Criminal Court arts. 5–6, July 17, 1998, 2187 U.N.T.S. 90.

<sup>50</sup> See SANDS, *supra* note 5, at 147 (documenting how nations described the mass murder of Armenians before the term “genocide” was coined, using phrases such as “the greatest crime of all ages,” “crimes against Christianity and civilization,” and “crime against humanity and civilization”), 147, 151–52 (recounting that there was no applicable law under which to prosecute former Ottoman government minister Talaat Pasha for the massacre of Armenians); Matthew Lippman, *The Convention on the Prevention and Punishment of the Crime of Genocide: Fifty Years Later*, 15.2 ARIZ. J. OF INT’L & COMPAR. L. 416–23 (1998) reprinted in GENOCIDE AND HUMAN RIGHTS 12–19 (Mark Lattimer ed.) (2007) (tracking historical developments in international law that led to the Genocide Convention).

vision and the persistence of one man: Raphael Lemkin.<sup>51</sup> Lemkin coined the term “genocide” and fought to make it a recognized international crime.<sup>52</sup> His story is relayed in the popular book *East West Street* by Philippe Sands.<sup>53</sup>

Lemkin was born in what is today Belarus in 1900.<sup>54</sup> As a young man, learning about the Ottoman mass killing of the Armenians in World War I<sup>55</sup> had a profound effect<sup>56</sup> on him. Lemkin was Jewish and he worried that international law would not protect Jews from the type of persecution suffered by the Armenians.<sup>57</sup>

When the Second World War erupted, Lemkin was working in private practice in Warsaw, having already completed his legal education and work as a prosecutor.<sup>58</sup> He was a prolific author and tried to publish a book every year on issues of law reform.<sup>59</sup> When the German forces advanced into Poland, Lemkin fled for his life<sup>60</sup> and found safety in Sweden.<sup>61</sup>

In Sweden, Lemkin taught at Stockholm University<sup>62</sup> and started to collect data about the legal infrastructure of the Nazi occupation.<sup>63</sup> Lemkin believed that

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<sup>51</sup> *Definitions of Genocide and Related Crimes*, United Nations Off. on Genocide Prevention and the Resp. to Protect, <https://perma.cc/4WGG-DGSS> (last visited June 25, 2025). *See also* SANDS, *supra* note 5, at 143.

<sup>52</sup> *See* SANDS, *supra* note 5, at 181.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 144.

<sup>55</sup> *See id.* at 147–48, 151–53 (discussing the Ottoman massacre of Armenians); Peter Balakian, *Raphael Lemkin, Cultural Destruction and the Armenian Genocide*, 27 HOLOCAUST AND GENOCIDE STUD. 57, 60–72 (2013) (exploring the events and significance of the Armenian Genocide).

<sup>56</sup> SANDS, *supra* note 5, at 152 (explaining that the Ottoman massacre of Armenians changed Lemkin’s life). *See* Balakian, *supra* note 55, at 55 (detailing Lemkin’s contention that the world needed a law against to eliminate states’ ‘right to kill’ millions of its citizens); Balakian, *supra* note 55, at 57–60 (overviewing the impact of the Armenian Genocide on Lemkin).

<sup>57</sup> Balakian, *supra* note 55, at 84 (“[There was] a great deal of resemblance between the Jews and the Armenians, who in 1915 lost more than one million of their people by genocide in Turkey.”) (quoting RAPHAEL LEMKIN, *TOTALLY UNOFFICIAL: THE AUTOBIOGRAPHY OF RAPHAEL LEMKIN* 49 (Donna-Lee Frieze ed., 2013)).

<sup>58</sup> *See* SANDS, *supra* note 5, at 161.

<sup>59</sup> *Id.* at 161–62.

<sup>60</sup> *Id.* at 162 (discussing Lemkin’s flight from Warsaw after the German advance to Poland in 1939).

<sup>61</sup> *Id.* at 166–67 (detailing Lemkin’s migration to Sweden).

<sup>62</sup> *Id.* at 167, 180.

<sup>63</sup> *Id.* at 167–68 (detailing Lemkin’s compiling of German legal enactments, including decrees and ordinances, and other documents, such as official gazettes with the goal of uncovering the method of Nazi rule).

by piecing together Nazi ordinances and decrees, he could expose a larger policy that may have been left strategically hidden by the Nazis.<sup>64</sup>

In 1941, Lemkin left Europe for the U.S.<sup>65</sup> and accepted a faculty position at the Duke University School of Law.<sup>66</sup> In America, there was a strong interest in Lemkin's research about the systematic annihilation of the Jews in areas occupied by the Germans, and Lemkin was often invited to speak about his research in influential settings.<sup>67</sup>

After a while, Lemkin accepted a position at the Board of Economic Warfare, a body dedicated to the coordination of the American war effort, and moved to Washington.<sup>68</sup> There, he had the opportunity to influence the very center of world power.<sup>69</sup> Lemkin decided to aim at the highest position of all and wrote a memo to President Roosevelt calling on him to propose a treaty for the protection of groups and the criminalization of mass killings.<sup>70</sup> Roosevelt did not adopt this idea and merely told Lemkin to wait patiently.<sup>71</sup>

Lemkin refused to wait. He decided to do what he knew how to do very well—to write a book arguing for his position.<sup>72</sup> Over the course of a year, Lemkin wrote a seven-hundred-page manuscript titled *Axis Rule in Occupied Europe*.<sup>73</sup> In this book, Lemkin coined the term “Genocide”—literally the killing of races—and used it to describe the systematic extermination of Jews and other ethnic

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<sup>64</sup> *Id.* at 168–69 (exploring how Lemkin's compilation and analysis of Nazi documents revealed a systematic pattern of denationalization, dehumanization, and cultural annihilation designed to achieve the total destruction of nations).

<sup>65</sup> *Id.* at 169–72 (detailing Lemkin's travel plans and departure from Sweden).

<sup>66</sup> *Id.* (detailing Lemkin's arrival at Duke University in Durham, North Carolina).

<sup>67</sup> *Id.* at 173 (recounting how Duke University organized several speaking engagements across North Carolina for Lemkin to discuss his experiences in Europe). *See id.* at 172 (discussing that the president of Duke requested that Lemkin address a dinner upon his arrival to discuss conditions in Europe); *id.* at 176 (discussing the 1941 conference of the American Bar Association where Lemkin delivered a lecture on totalitarianism); *id.* at 176–77 (recounting Lemkin's address to the North Carolina Bar Association in 1942).

<sup>68</sup> *Id.* at 177–78.

<sup>69</sup> *Id.* (explaining that Lemkin's position on the Board of Economic Warfare gave Lemkin access to the powerbrokers of American politics).

<sup>70</sup> *Id.* at 178–79.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 179.

<sup>73</sup> RAPHAËL LEMKIN, *AXIS RULE IN OCCUPIED EUROPE* (1944).

groups in Nazi-occupied Europe.<sup>74</sup> Numerous decrees that Lemkin meticulously collected and translated were provided as evidence for the execution of this plan.<sup>75</sup>

When the Allies won the war in Europe, they were getting ready to prosecute the chief Nazi war criminals. This was Lemkin's opportunity to try to introduce the crime of genocide to international law. Lemkin contacted Chief Prosecutor Robert Jackson and started to work as part of his team.<sup>76</sup> However, he was met with much resistance and his impact was limited.<sup>77</sup> When the list of crimes in the Nuremberg Charter—the document that created the International Military Tribunal at Nuremberg—was finalized, it didn't include the crime of genocide, to his great disappointment.<sup>78</sup>

Lemkin had one more opportunity, though. He could squeeze the crime of genocide into the specific charges against the defendants in the trial.<sup>79</sup> Lemkin travelled to London and started an aggressive campaign towards that goal.<sup>80</sup> This campaign earned him many enemies,<sup>81</sup> but it eventually proved successful. The indictment in Nuremberg included, under the heading of “war crimes,” the first legal mention of the crime of genocide, just as Lemkin envisioned it—the extermination of a racial or religious group.<sup>82</sup>

Lemkin was naturally satisfied, but his happiness was short-lived. The final judgment of the Nuremberg trial did not mention the crime of genocide,<sup>83</sup> it did

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<sup>74</sup> SANDS, *supra* note 5, at 181 (discussing Chapter 9 of *AXIS RULE IN OCCUPIED EUROPE*, titled “Genocide,” where Lemkin coined and defined the term, explaining that “new conceptions require new terms”) (quoting LEMKIN, *supra* note 73, at 79).

<sup>75</sup> *Id.* at 183 (noting that the final section of *AXIS RULE IN OCCUPIED EUROPE* established irrefutable proof of genocide, consisting of about 400 pages of Nazi decrees that Lemkin had compiled) (citing LEMKIN, *supra* note 73, at 267–635).

<sup>76</sup> *Id.* at 185–86.

<sup>77</sup> *Id.* at 186–87 (detailing how Lemkin, viewed as lacking litigation experience, was relegated to “background tasks” involving his encyclopedic knowledge of Nazi war crimes).

<sup>78</sup> *Id.* at 187.

<sup>79</sup> *Id.* at 188.

<sup>80</sup> *Id.* at 188–89 (discussing how Lemkin likely leveraged his relationship with Colonel Murray Bernays to procure an invitation to join Jackson's team in London).

<sup>81</sup> *Id.* (describing how Lemkin's persistence alienated many legal and government actors, spurring multiple complaints about his unmanageable character and allegations of conducting informal sessions, unauthorized meetings, and press briefings).

<sup>82</sup> *Id.* at 189 (articulating count 3 of the Nuremberg indictment, which for the first time in any international instrument contained the term “genocide” and its definition). *See id.* at 271 (discussing how French prosecutors were tasked with presenting the third count at Nuremberg, including the charge of genocide).

<sup>83</sup> *Id.* at 352.

not even mention that the crime was argued before the court.<sup>84</sup> Moreover, the judges decided not to deal with the persecution of Jews that occurred prior to the beginning of the war.<sup>85</sup> For Lemkin, this was a massive personal failure.<sup>86</sup>

But that was not the end of the story of Lemkin and his historic quest to outlaw genocide. Shortly after the Nuremberg trials ended in October 1946, the U.N. General Assembly adopted resolution ninety-six,<sup>87</sup> which defined genocide as an international crime and stated that the punishment of it is a “matter of international concern.”<sup>88</sup>

This was exactly the moment that Lemkin was fighting for. Seizing the opportunity, he prepared a draft convention for the prevention of genocide and started lobbying governments to support his initiative.<sup>89</sup> Finally, the Convention on the Prevention and Punishment of the Crime of Genocide was adopted by the U.N. General Assembly on December 9, 1948.<sup>90</sup> Lemkin would go on to devote the remaining years of his life to convincing more and more states to join the Convention.<sup>91</sup>

The story of the criminalization of genocide demonstrates how the persistence and energy of one man can make a significant difference to the landscape of international law. There were many who resisted Lemkin’s ideas. Many still think that his focus on groups instead of on individuals can prove counter-productive because it aggravates ethnic tensions instead of relieving

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<sup>84</sup> *Id.* at 352 (highlighting that the final judgment made no reference to the fact that three of the four prosecuting powers supported the charge of genocide). *See id.* at 287 (noting that “genocide” was referenced by French and Soviet prosecutors on the first day of the trial); *id.* at 322–25 (discussing how, after months without reference, the term “genocide” returned to the courtroom during the cross-examination of defendant Konstantin von Neurath); *id.* at 335 (recounting Hartley Shawcross’s closing statement at Nuremberg, which included the assertion that the defendants perpetrated a “policy of genocide”).

<sup>85</sup> *Id.* at 352. *See id.* at 334 (noting that Lemkin was disheartened that Hartley Shawcross’s closing argument for the British prosecution made no mention of crimes committed by the Germans before the start of the war in 1939); *id.* at 357 (articulating that the judges concluded that crimes against humanity consisted only of crimes that occurred after the start of the war in 1939).

<sup>86</sup> *Id.* at 361 (discussing how Lemkin perceived the judgment at Nuremberg as “the blackest day of his life”).

<sup>87</sup> G.A. Res. 96 (Dec. 11, 1946).

<sup>88</sup> *Id.*; SANDS, *supra* note 5, at 361.

<sup>89</sup> SANDS, *supra* note 5, at 361.

<sup>90</sup> *Id.* (describing the Convention on the Prevention and Punishment of the Crime of Genocide as the first human rights treaty of the modern era).

<sup>91</sup> *Id.* at 361–62 (noting that France and the U.S.S.R. joined the convention prior to Lemkin’s death in 1959, later followed by the U.K. and the U.S.).

them.<sup>92</sup> But whether the change that Lemkin initiated was an unmitigated blessing to international law or not, it was dramatic and inspiring.

#### IV. CREATING THE INTERNATIONAL RED CROSS

The International Committee of the Red Cross (ICRC) changed history by improving the protection of wounded soldiers, prisoners of war, and civilian victims of armed conflicts.<sup>93</sup> It sponsored the humanitarian Geneva Conventions, which have developed over the years to protect people from the horrors of war and received a special status under these treaties.<sup>94</sup> The story of the inception of the ICRC demonstrates once again how one person can initiate a process that pushes international law and the international community forward.

The co-founder of the ICRC was Henry Dunant, a Swiss businessman. Dunant was on his way to meet the French Emperor Napoleon III in Italy in 1859 when he passed near the location of the battlefield of Solferino<sup>95</sup> some time after the fighting ended.<sup>96</sup> What Dunant saw shocked him. Thousands of soldiers were left wounded or dying in the field.<sup>97</sup> Such a slow and agonizing death has been the

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<sup>92</sup> See *id.* at 184–85 (detailing Leopold Kohr’s, an Austrian academic, unpublished critique of *Axis Rule* for adopting a group-based approach that reflected the kind of “biological thinking” that initially led to anti-Semitism and anti-Germanism). Compare *id.* at 281 (discussing Hersch Lauterpacht’s preference for an individual-based approach, fueled by concerns about tribalism and inter-group conflict that could arise from targeting groups) with *id.* at 281 (articulating Lemkin’s counterargument that focusing on the individual was a naïve approach that ignored the motive and intent behind violence targeted at individuals because of their membership in a particular group).

<sup>93</sup> *Our History*, INTERNATIONAL COMMITTEE OF THE RED CROSS, <https://perma.cc/S25L-E3Q6> (last visited June 30, 2025) (reviewing the founding of the ICRC in 1863).

<sup>94</sup> See Theodor Meron, *The Geneva Conventions as Customary Law*, 81 AM. J. INT’L L. 348, 348–50 (1987) (discussing the transformation of Geneva Convention norms into customary international law, which mandates universal adherence regardless of signatory status).

<sup>95</sup> François Bugnion, *The International Committee of the Red Cross and the Development of International Humanitarian Law*, 5 CHI. J. INT’L L. 191, 191–92 (2004) (describing the Battle of Solferino (June 24, 1859) during the Second Italian War of Independence as one of the bloodiest single-day battles in mid-19th century European warfare, resulting in approximately 6,000 deaths and 40,000 wounded in just fifteen hours of combat); 1 PIERRE BOISSIER, HISTORY OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS: FROM SOLFERINO TO TSUSHIMA 19–20 (2d ed. 1985) (recounting the events of the Battle of Solferino and its deadly aftermath). See DAVID P. FORSYTHE, THE HUMANITARIANS: THE INTERNATIONAL COMMITTEE OF THE RED CROSS 15 (2005) (describing the Battle of Solferino as a “murderous one day tournament”) (internal quotation marks omitted) (quoting MICHAEL IGNATIEFF, THE WARRIOR’S HONOR: ETHNIC WAR AND THE MODERN CONSCIENCE 118 (1999)).

<sup>96</sup> BOISSIER, *supra* note 95, at 16–18 (1985) (detailing Dunant’s travel to meet Napoleon III and arrival to the town of Solferino). See Bugnion, *supra* note 95, at 191–92 (noting that Dunant was on a business trip to Castiglione delle Stiviere).

<sup>97</sup> See BOISSIER, *supra* note 95, at 20–21 (explaining that French medical capabilities were inadequate to respond to the carnage at Solferino, resulting from the War Ministry’s request for medical aides to military hospitals issued just five days before the battle, and by the practice of medical aides

fate of wounded and immobile soldiers who survived fighting throughout human history.

Dunant would not accept this fate. He immediately started to organize the local civilian population to help the wounded soldiers.<sup>98</sup> He bought necessary supplies and organized people to take care of all the soldiers in need, regardless of which side they were fighting for.<sup>99</sup>

Shortly after, Dunant resolved to write a book about these events, *A Memory of Solferino*.<sup>100</sup> The book develops the idea of a neutral organization designed to treat wounded soldiers.<sup>101</sup> Dunant printed the book at his own expense and sent it to many European political and military leaders.<sup>102</sup>

Dunant started to tour Europe and look for supporters for his idea. Following these efforts, Gustave Moynier, the President of the Geneva Society for Public Welfare, decided to suggest Dunant's idea to members of his organization.<sup>103</sup> The members approved of the idea and decided to create a five-member committee to examine it further, with Dunant as one of its members.<sup>104</sup>

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remaining on battlefields to treat wounded soldiers, thereby depleting available personnel for subsequent engagements); Bugnion, *supra* note 95, at 191–92 (noting that the Franco-Sardinian army medics were overwhelmed by the carnage); FORSYTHE, *supra* note 95 (noting that there were more veterinarians to care for horses at the Battle of Solferino than doctors to aide wounded soldiers).

<sup>98</sup> BOISSIER, *supra* note 95, at 23, 25–26 (explaining how Dunant, with the help of a team of local women and children, “[f]our Englishmen, an Italian abbot, three or four travellers [sic.], a Parisian journalist, a young Frenchman, an industrialist from Neuchâtel... and a Belgian,” organized to care for the wounded soldiers).

<sup>99</sup> *Id.* at 25 (noting that Dunant sent his coachman to acquire supplies needed to comfort and treat the wounded).

<sup>100</sup> HENRY DUNANT, *A MEMORY OF SOLFERINO* (Am. Red Cross ed., trans., 1959) (1862).

<sup>101</sup> BOISSIER, *supra* note 95, at 40 (recounting Dunant's conclusions in *A Memory of Solferino* that there should be officially recognized international relief societies coordinating to provide aid to wounded soldiers); Bugnion, *supra* note 95, at 192 (discussing two proposals made by Dunant in *A Memory of Solferino*: first, the creation of relief centers for wounded soldiers throughout Europe tasked with mobilizing resources, which would become the Red Cross; and second, a treaty extending battlefield protection to the wounded and aid providers).

<sup>102</sup> BOISSIER, *supra* note 95, at 40.

<sup>103</sup> *Id.* at 47–49 (recounting how Moynier was moved by his reading of *A Memory of Solferino*, resolved to turn the plan into reality by convening the Society for Public Welfare to evaluate Dunant's proposal).

<sup>104</sup> *Id.* at 49 (discussing the Society's approval of a five-member committee tasked with further exploring Dunant's ideas). See Bugnion, *supra* note 95, at 192 (recounting the five men in the committee as Henry Dunant, Gustave Moynier, General Guillaume-Henri Dufour, and Doctors Appia and Maunoir).

On February seventeenth, 1863, the committee met for the first time and decided to found the ICRC.<sup>105</sup>

Despite significant differences of opinion within the committee, events developed quickly from that point on. In October 1863, fourteen states attended a meeting organized by the ICRC in Geneva to discuss the care of wounded soldiers.<sup>106</sup> In August 1864, a conference organized by the Swiss government led 12 States<sup>107</sup> to sign the first Geneva Convention—the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field.<sup>108</sup> This Convention specifically allowed the Red Cross to provide protection and relief to wounded soldiers.<sup>109</sup>

Henry Dunant's bravery and compassion managed to transform the treatment of wounded soldiers entirely within a short time. Meanwhile, Dunant became bankrupt which resulted in his social ostracization and forced him to leave Geneva.<sup>110</sup> He spent the following years in Paris, living in poverty and continuing to found organizations and fight for his humanitarian ideas to the best of his ability. This endeavor left Dunant with growing debts that forced him to migrate from city to city.<sup>111</sup>

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<sup>105</sup> BOISSIER, *supra* note 95, at 53–54 (establishing that the committee, tasked with creating relief societies and a voluntary nurse program for wounded soldiers, established its permanence as the International Committee for Relief to the Wounded (later known as the ICRC));

<sup>106</sup> Bugnion, *supra* note 95, at 193; Stefanie Haumer, *1863: The Creation of the First National Society at the Beginning of the Movement's History*, 94 INT'L REV. RED CROSS 1339, 1342–43 (2012) (discussing the October 1863 International Conference organized by the ICRC and listing the fourteen attending states as Baden, Bavaria, France, Great Britain, Hanover, Hesse-Darmstadt, Italy, The Netherlands, Austria, Prussia, Russia, Saxony, Sweden, and Spain).

<sup>107</sup> BOISSIER, *supra* note 95, at 119 (enumerating the original 12 states party to the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field as, the Grand Duchy of Baden, Belgium, Denmark, Spain, France, the Grand Duchy of Hesse-Darmstadt, Italy, the Netherlands, Portugal, Prussia, Switzerland, and Wurttemberg).

<sup>108</sup> Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, Aug. 22, 1864, 55 B.S.P. 43.

<sup>109</sup> *Id.* See BOISSIER, *supra* note 95, at 114–20 (discussing the events of the International Conference for the Neutralization of Army Medical Personnel in the Field that culminated in the signing of the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field); Bugnion, *supra* note 95, at 193 (describing the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field as a turning point in international law that transformed the seldom-respected custom of rendering aid to wounded soldiers into a binding rule of law).

<sup>110</sup> BOISSIER, *supra* note 95, at 203–06 (recounting how Dunant lost all his money to creditors of the Credit Genevois, a bankrupt Genevan bank of which he was a director, leading to his exile from Geneva and ostracization from the International Committee).

<sup>111</sup> *Id.* at 353 (recounting that around 1875, Dunant, poverty stricken and sick, was forced to wander from country to country while still continuing his advocacy work, defending causes such as emancipation and Zionism).

In 1895, already in a nursing home in a small Swiss resort village, an article was published about the role Dunant played in founding the International Red Cross, which managed to get public attention.<sup>112</sup> This brought Dunant back into the public eye and reenergized his work towards his lofty goals.<sup>113</sup> In 1901, Dunant received the inaugural Nobel Peace Prize for founding the Red Cross.<sup>114</sup>

## V. ANALYSIS: THE INDIVIDUAL-ELITE-PUBLIC TRIANGLE

### A. The Money-Time for Idea Growth

If there is one thing that the three case studies demonstrate, it is that the initiative to start a process that will change international law forever can come from anyone. The heroes of the dramas related in this paper do not fit a type. Levinson was a corporate lawyer,<sup>115</sup> and Shotwell was a history professor.<sup>116</sup> Dunant was neither a lawyer nor an academic; he was a businessman.<sup>117</sup> Lemkin, in contrast, was exceptionally knowledgeable about international law and criminal law, dedicating his life to legal and scholarly pursuits.<sup>118</sup> What all these men had in common was not their education, their upbringing, or their life circumstances; it was a crystal-clear moral compass and superhuman perseverance in following it.

Reflecting on the conditions that are conducive to the future development of international law quickly renders the conclusion that one cannot focus on raising and nurturing new heroes like the ones discussed in this paper. People like Levinson, Shotwell, Lemkin, and Dunant are very rare.<sup>119</sup> They do not fit any mold. There is no system of education or set of values that is guaranteed to produce individuals with the courage and the energy to fight for their beliefs

<sup>112</sup> *Id.* at 354–55 (describing how Georg Baumberger, a Swiss journalist, happened to come across Dunant in a garden in Heiden, striking up a conversation that served as the source for news articles recognizing Dunant as the founder of the Red Cross that were later published in Switzerland and eventually appeared in worldwide press sources, creating a global sensation).

<sup>113</sup> *Id.* at 355 (noting that Dunant received countless messages of good wishes and even money on his 68th birthday following his newfound global recognition).

<sup>114</sup> *Id.* (recounting that Dunant, along with his long-time friend Frédéric Passy, were the first recipients of the Nobel Peace Prize in 1901); *Henry Dunant – Facts*, THE NOBEL PRIZE, <https://perma.cc/Z64R-9X56> (last visited July 1, 2025).

<sup>115</sup> *See* HATHAWAY & SHAPIRO, *supra* note 1, at 106 (describing Levinson as a corporate lawyer versed in financial reorganization).

<sup>116</sup> *See id.* at 115–16 (recounting Shotwell’s position as a professor in Columbia’s History Department).

<sup>117</sup> *See* BOISSIER, *supra* note 95, at 13–16 (discussing Dunant’s business troubles that led him on “the road to Solferino”).

<sup>118</sup> *See* SANDS, *supra* note 5, at 159–62, 167–69, 173–74, 176–77 (discussing Lemkin’s expertise as an international legal academic engaged in authorship, teaching, and research).

<sup>119</sup> *See* SAMUEL P. HUNTINGTON, *POLITICAL ORDER IN CHANGING SOCIETIES* 344–46 (1996) (stating that revolutions and reform are rare, and the path of the reformer difficult).

against all odds.<sup>120</sup> Throughout history, people of this kind emerge, struggle, and, if successful, manage to change the course of humanity and inspire others.

The rarity of heroes of the kind mentioned in this paper is not surprising and should also not be viewed as too discouraging. Humanity does not need many heroes to improve and reform itself. The people mentioned in this paper started sea changes in international law that transformed it for generations. These changes take time to implement, to mature, and to stagnate into the new norm.<sup>121</sup> Too many revolutions are not a good thing, even if they point in the right direction, because the system needs some level of stability. Without stability, there is no legal predictability and certainty and the chances that the international system would break down rise markedly.<sup>122</sup> Therefore, the scarcity of individuals who have the will and the character necessary to push international law forward is not only a fact of life, it is often also a blessing.

This realization naturally draws one's attention to the other end of the process—the time when the new idea gathers momentum and starts to change the practice of states and the rules of international law. But here, again, it seems like trying to consciously reform the international system into a condition that would support such changes is not a winning strategy. Once a process starts to fundamentally change the condition of people with power, it is not guided by international law. It is guided by interests and the incentives of powerful actors trying to get a competitive edge.<sup>123</sup>

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<sup>120</sup> See Finnemore & Sikkink, *supra* note 42, at 896 (exploring how international legal development depends on rare individuals who emerge organically by chance rather than through institutional design).

<sup>121</sup> *Id.* at 895–96 (describing a three-stage norm life cycle of emergence, cascade, and internalization that unfolds over decades).

<sup>122</sup> Noora Arajärvi, *The Core Requirements of the International Rule of Law in the Practice of States*, 13 HAGUE J. RULE L. 173, 185–86 (2021) (identifying consistency and predictability as two interlinked core requirements that bestow rationality on the international rule of law and ensure equity); Faudzan Farhana, *Consistency and Predictability in International Tribunals' Decisions on Maritime Delimitation Cases from 2009 to 2019*, 18 INDONESIAN J. INT'L L. 23, 25 (2020) (explaining that consistency and predictability are vital to ensure courts and tribunals fairly administer procedural and substantive justice); James G. Devaney, *The Role of Precedent in the Jurisprudence of the International Court of Justice: A Constructive Interpretation*, 35 LEIDEN J. INT'L L. 641, 654 (2022) (recognizing that the doctrine of *stare decisis* is often justified by appeals to consistency and equality). See *Case Concerning the Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment, 1985 I.C.J. 13, ¶ 45 (June 3) (“justice according to the rule of law ... should display consistency and a degree of predictability”).

<sup>123</sup> See HUNTINGTON, *supra* note 119, at 344–45 (discussing the importance of political savvy amongst reformers who must be cognizant of manipulative social forces while encouraging expanded political participation in order to influence change); JACK L. GOLDSMITH & ERIC A. POSNER, *THE LIMITS OF INTERNATIONAL LAW* 12 (2005) (arguing that “[i]nternational law emerges from States’ pursuit of self-interested policies on the international stage...It is not a check on state self-interest; it is a product of state self-interest.”).

Once a process reaches the level of senior politicians like Kellogg and Briand, the rules of the game change. It is true that these politicians are subject to influence from the bottom up. It may also be true that such influence has increased in magnitude in a world in which the bottom levels are constantly communicating across borders and forming powerful coalitions.<sup>124</sup> But trying to transform the way these upper echelons of power behave is tantamount to trying to change human nature from the root. Such forms of utopian thinking cannot guide any level-headed attempt at prescribing a realistic legal reform. In almost all situations, the timing and the underlying balance of power would determine the result of political exchanges at that level, not any attempt at social engineering.

If the beginning and the end of the process of legal reform cannot be engineered to improve their success, this leaves the middle—the only place where conditions can be markedly improved. This is the time when a revolutionary idea had already germinated and a would-be hero had already taken up the task of fighting for it, but the revolution had not yet recruited any people of real power. At this time, the process of change is at its most vulnerable.<sup>125</sup> If the initial efforts of pushing forward the new revolution fail to make a mark, the process may never reach maturity.

The aim of the following sub-Parts is to break down the process that unfolds at this critical moment in the birth of a new revolution. The process involves an individual or several individuals that initiate a change. These individuals need to be free enough to be able to go against the system and fight for their beliefs. Then, the process needs to engage the elite—these are the people with power in politics and in the legal system. The elite has to be receptive enough to the idea to engage

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<sup>124</sup> Shai Dothan, *The Bandwagon of International Law*, 60 TEX. INT'L L.J. (forthcoming 2025) (discussing how individuals now have unprecedented power to initiate global change by networking across national boundaries, creating network flows from the bottom of state A to the bottom of state B, then to the top of both states. Anne-Marie Slaughter described a very similar phenomenon, which she dubbed the “New World Order,” in which lower-level government bureaucrats are building up and formalizing international partnerships in order to solve international problems below the level of the chief executive. ANNE-MARIE SLAUGHTER, A NEW WORLD ORDER 32–33 (2009)). See Harold Hongju Koh, *How is International Human Rights Law Enforced?*, 74 IND. L.J. 1397, 1416 (1999) (arguing that every individual can exert political pressure to shape government decisions); MALCOLM GLADWELL, THE TIPPING POINT: HOW LITTLE THINGS CAN MAKE A BIG DIFFERENCE 7–8 (1st ed. 2000) (theorizing that global movements propagate through populations in a manner analogous to epidemic transmission); DONATELLA DELLA PORTA, ET AL., GLOBALIZATION FROM BELOW: TRANSNATIONAL ACTIVISTS AND PROTEST NETWORKS 95–96 (2006) (explaining that the rise of computer-mediated communication has facilitated the proliferation of transnational activism).

<sup>125</sup> See Alina Pomaza-Ponomarenko et al., *Legal Reform and Change: Research on Legal Reform Processes and Their Impact on Society. Analysis of Factors That Facilitate or Hinder Legal Change, Including Political, Social, and Economic Factors*, 11 J.L. & SUSTAINABLE DEV. 1 (2023) (explaining that the success of legal reform depends not only on initiating or finalizing changes, but critically among other factors, on mid-process factors such as political will, institutional support, and societal engagement, which determine whether early reform efforts gain the traction needed to achieve lasting impact).

powerful actors that will push it through. Finally, the general public has to be involved in and support this process. Without the support of the public, the individual would not be able to sustain the fight and the elites will not back it. By analyzing the three corners of the triangle, individual-elite-public, the conditions that facilitate legal revolutions can be charted.

## B. Individual

Part V.A argues that there is no sure way to produce heroes of the kind discussed in this paper. Surely, there are certain types of upbringing that may be more likely than others to produce a strong moral sense, determination, and discipline.<sup>126</sup> But given that the kind of people who fundamentally change international law are so rare and come from the very end of any distribution of human accomplishment, it is impossible to design an educational system around their profile.<sup>127</sup>

If one should not worry about the breeding of heroes, the natural thing to consider would be how to ensure that they will not be harassed in a way that even they cannot withstand. Unique people who led social movements have often survived great hardships and prevailed; think of names like Mahatma Gandhi<sup>128</sup> and Nelson Mandela.<sup>129</sup> But this does not mean that people like Levinson, Shotwell, Lemkin, or Dunant would be able to do the same. These people spent their time and money, sometimes even deteriorating into bankruptcy or jeopardizing their health, but they did not have to face prosecution or imprisonment for their beliefs. If these people did not live in liberal and prosperous countries that allowed them to pursue their revolutionary agenda with

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<sup>126</sup> E.g. Amanda M. Ramos et. al., *Did I Inherit My Moral Compass? Examining Socialization and Evocative Mechanisms for Virtuous Character Development*, 49 BEHAV. GENETICS 175, 176 (2019) (discussing how authoritative parenting—characterized by both demandingness and support—is more strongly associated with virtuous character traits, including social responsibility, community engagement, and prosocial behavior).

<sup>127</sup> LUDWIG VON MISES, HUMAN ACTION: A TREATISE ON ECONOMICS 311 (The Ludwig Von Mises Inst. 1998) (1949) (“Innovators and creative geniuses cannot be reared in schools. They are precisely the men who defy what the school has taught them.”).

<sup>128</sup> See JUDITH BROWN, GANDHI: PRISONER OF HOPE (1989) (examining Gandhi’s experiences in British jails, his deteriorating health during fasts, and the moral and physical costs of leading mass resistance).

<sup>129</sup> See NELSON MANDELA, LONG WALK TO FREEDOM: THE AUTOBIOGRAPHY OF NELSON MANDELA (1994) (recounting Mandela’s 27 years in prison and his leadership in dismantling apartheid and establishing multiracial democracy in South Africa).

relative safety and comfort, it is possible that their quest would have failed at the very beginning.<sup>130</sup>

In light of that, I think that the best program for a society that encourages individuals to push international law forward is quite simply to leave them alone, not to harm them and not to forbid them from holding beliefs, from expressing them, and from convincing others to join them. It is no coincidence that the very core of the freedoms guaranteed in every democracy includes exactly these rights.<sup>131</sup>

Liberal countries grant their citizens the freedom of conscience.<sup>132</sup> They make people free to think what they like and to act based on these thoughts even if they are unorthodox or resisted by the people in power. There were certainly many powerful people who profited from wars across the long period that covers all the stories in this paper. If the powerful people in government were allowed to unleash their might against the humble heroes who attempted to change the order they profited from, none of the positive changes in international law discussed here would materialize.<sup>133</sup>

Liberal countries also allow people to speak their mind, to publish their ideas in a variety of ways, and to engage others to support their cause.<sup>134</sup> For the success stories related in this paper, this freedom is critical because without it the initiators of change would never manage to sway the elite or to engage the public in their

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<sup>130</sup> See Keyvan Vakili & Laurina Zhang, *High on Creativity: The Impact of Social Liberalization Policies on Innovation*, 39 STRATEGIC MGMT. J. 1860 (2018) (finding that liberalization policies increase collaboration and innovation output by promoting openness to diversity); William A. Galston, *The Populist Challenge to Liberal Democracy*, 29 J. DEMOCRACY 5, 18 (2018) (arguing that liberal democracies derive their strength from a capacity for self-correction through institutionalized opposition and dissent, even under populist pressure).

<sup>131</sup> See Larry Diamond, *Facing Up to the Democratic Recession*, 26 J. DEMOCRACY 141, 143 (2015) (demonstrating that freedom of expression, press, and political opposition are universal democratic principles whose erosion signals democratic backsliding); *Democracy*, UNITED NATIONS, <https://perma.cc/QT5U-SWX4> (last visited July 3, 2025) (listing freedom, respect for human rights, and the periodic holding of genuine elections as essential elements of democracy).

<sup>132</sup> See Convention for the Protection of Human Rights and Fundamental Freedoms, art. 9, Nov. 4, 1950, 213 U.N.T.S. 221 (protecting “freedom of thought, conscience and religion” as core civil liberties under European human rights law); JOHN RAWLS, POLITICAL LIBERALISM 310–12 (Columbia Univ. Press rev. ed., 2005) (arguing that a just liberal society must protect the “liberty of conscience” as part of the basic structure of fairness and neutrality among competing moral doctrines).

<sup>133</sup> See Barbara J. Falk, *Learning from History: Why We Need Dissent and Dissidents*, 64 INT’L J. 243, 243–46 (2009) (exploring how authoritarian governments restrict freedom of expression and political opposition to silence dissent, which has historically catalyzed revolution and liberal reform).

<sup>134</sup> FREDERICK SCHAUER, FREE SPEECH: A PHILOSOPHICAL ENQUIRY 35–59 (1982) (analyzing the relationship between liberal democracy and expressive freedoms).

favor.<sup>135</sup> New technologies increase the potential audience of such messages but also allow surveillance by the government.<sup>136</sup> Freedom of expression is designed to ensure that the government would not use its power to quash these ideas.

New ideas require collaboration of committed parties to succeed, and this requires forming associations, whether formal or informal.<sup>137</sup> The freedom of association that all liberal systems grant is designed to guarantee exactly this activity.

Finally, to make changes on a global scale, the instigators of change often have to travel to other countries and gather support for their ideas.<sup>138</sup> This is why freedom of movement<sup>139</sup> is so important. Without it, individuals are severely limited in their ability to initiate global movements.

The connecting element between all these rights and freedoms is that they do not require any active help or support from the government. These rights are negative in nature; they are designed merely to forbid the government from taking steps that would preempt the activity of individuals and extinguish the ideas that they set out to pursue.

One important element to keep in mind is that when people set out to make a great change they make powerful enemies, both in the government and in the private sphere.<sup>140</sup> It is the task of the legal system to make sure that these enemies would not be able to harm them in ways that would destroy their ability to promote their ideas. With a good legal system even bitter rivalries should present themselves as a healthy competition between conflicting ideas.<sup>141</sup> This competition

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<sup>135</sup> See Pomaza-Ponomarenko et al., *supra* note 125.

<sup>136</sup> YOCHAI BENKLER, *THE WEALTH OF NETWORKS: HOW SOCIAL PRODUCTION TRANSFORMS MARKETS AND FREEDOM* 212–15 (2006) (discussing how digital technologies expand communicative reach while enabling new forms of control and surveillance); SHOSHANA ZUBOFF, *THE AGE OF SURVEILLANCE CAPITALISM: THE FIGHT FOR A HUMAN FUTURE AT THE NEW FRONTIER OF POWER* (2019) (examining how digital platforms enable both mass communication and mass surveillance).

<sup>137</sup> See Vakili & Zhang, *supra* note 130, at 1860.

<sup>138</sup> *C.f.* MARGARET E. KECK & KATHRYN SIKKINK, *ACTIVISTS BEYOND BORDERS: ADVOCACY NETWORKS IN INTERNATIONAL POLITICS* 16–25 (1998) (discussing how transnational advocacy networks can leverage activists' ability to travel and organize across borders, but highlighting the importance of other modern electronic communication tools).

<sup>139</sup> Universal Declaration of Human Rights art. 13, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (Dec. 10, 1948) (recognizing freedom of movement as a fundamental right).

<sup>140</sup> See HATHAWAY & SHAPIRO, *supra* note 1, at 114–19 (exploring the rivalry between Levinson and Shotwell). See also SANDS, *supra* note 5, at 187–89 (discussing how Lemkin's persistence earned him many political enemies).

<sup>141</sup> See Robert Sparrow & Robert E. Goodin, *The Competition of Ideas: Market or Garden?*, 4 *CRITICAL REV. INT'L SOC. & POL. PHIL.* 45, 53–56 (2001) (conceptualizing liberal society as a garden where ideas compete to take root, while accounting for cultural, historical, and material circumstances that may cause valuable ideas to fail regardless of their merit).

should never be allowed to turn into sabotage of true efforts to improve international law.

### C. Elite

For any democrat, the word “elite” has a negative connotation. Democracy is all about the diffusion of power<sup>142</sup> and about widening the number of individuals with a real influence over politics by giving every person one vote.<sup>143</sup> But even in the most perfect democracy, elites are always a fact of life. There will always be people who have better education, more financial resources, or a stronger position in the social network. The key to guiding changes to international law in the right direction is accepting this reality and coping with it. What this sub-part attempts to do is imagine which kind of elites would be the most conducive to letting individuals initiate a successful shift in international law.

The first answer that comes to mind is that the legal elite in the country where change is about to start needs to be educated, strong, and confident. If judges, lawyers, and legal academics are respected and impactful, they can help to carry through a revolution<sup>144</sup> even if it is started by someone without specialized legal education.<sup>145</sup> Shortly after the beginning of every major legal change, it is necessary for professional lawyers to pick up the mantle. They can do that only if they have nothing to fear from the government and if they have enough political traction to push through a legal change against the inevitable political resistance.<sup>146</sup>

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<sup>142</sup> Shai Dothan, *Democracy, Populism, and Concentrated Interests*, 56 LOY. L. A. L. REV. 459, 470–73.

<sup>143</sup> See Leonardo Morlino, *What is a ‘Good’ Democracy?*, 11 DEMOCRATIZATION 10, 12, 17–20 (2004) (explaining that a “good” democracy requires procedural quality through accountability, whereby citizens possess the power to monitor and evaluate the government’s pursuit of liberty and equality under the rule of law, and elected political leaders are obligated to answer for their political decisions); Philippe C. Schmitter & Terry Lynn Karl, *What Democracy Is... and Is Not*, 2 J. DEMOCRACY 75, 76 (1991) (defining “modern political democracy [as] a system of governance in which rulers are held accountable for their actions in the public realm by citizens”) (citing JOSEPH SCHUMPETER, *CAPITALISM, SOCIALISM & DEMOCRACY* 269 (1943)). See also *Gray v. Sanders*, 372 U.S. 368, 381 (1963) (establishing the principle that American democracy is founded on “one person, one vote”).

<sup>144</sup> See Geoffrey R. Stone, *The Warren Court v. The Roberts Court*, 104 B.U. L. REV. 1451, 1455–62 (2024) (examining how the Warren Court transformed American law through controversial decisions that compelled societal change to protect vulnerable populations); Holly J. McCammon & Allison R. McGrath, *Litigating Change? Social Movements and the Court System*, 9 SOCIO. COMPASS 128 (2015) (examining how social movement actors use litigation to bring about social change).

<sup>145</sup> See BOISSIER, *supra* note 95, at 13–16 (discussing Dunant’s experience as a businessman).

<sup>146</sup> See Peter H. Solomon Jr., *Courts and Judges in Authoritarian Regimes*, 60 WORLD POL. 122, 124–27 (2007) (discussing that judicial independence and political support are both essential for courts to function effectively, particularly in authoritarian regimes where judges face external pressures, threats of dismissal, or institutional curtailment if their decisions displease the ruling elite); Dothan,

The only way to ensure that the legal elite in the country stays strong over time is not to strive for all elements of government to work in tandem to uphold the law. It is precisely the opposite—to maintain a political system that ensures constant friction caused by checks and balances between opposing powers.<sup>147</sup> A good government is not a perfect government. It cannot be, because a good government must maintain a constant state of separation of powers that is unavoidably wasteful. The way to maintain not just the formal independence of the judiciary, but also the enduring strength of the legal elite, is to provide long-term guarantees for checks and balances within the political system.<sup>148</sup>

The legal elite should have enough independence that at least part of it would support the initiated legal change. Furthermore, this part of the elite should have enough power to successfully put in place this change to the legal system. Other elites, such as the military, private tycoons, and senior government officials, may resist the legal change, but if the legal elite is strong enough, they would not be able to quash it.

Beyond resistance that comes from outside the legal world, it is entirely possible that there would be members of the legal elite itself who would oppose the change.<sup>149</sup> The legal elite must therefore not be too centralized. It should be

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*supra* note 142142, at 476–77 (discussing the judiciary's role as a check on other branches of government and in supervising friction between political bodies, which in turn informs diffuse interest groups and thereby strengthens democracy); Larry V. Starcher, *An Independent Judiciary*, W. VA. LAW. 8, 8 (2003) (discussing the independent judiciary as a fundamental requirement of a functioning democracy); Terence C. Halliday, Lucien Karpik & Malcolm Feeley, *Introduction—the Legal Complex in Struggles for Political Liberalism*, in *FIGHTING FOR POLITICAL FREEDOM: COMPARATIVE STUDIES OF THE LEGAL COMPLEX AND POLITICAL CHANGE* (Terence C. Halliday, Lucien Karpik & Malcolm Feeley Eds., 2007) 1–9 (discussing the crucial role that professional lawyers play in protecting democratic values and the rule of law).

<sup>147</sup> ALLISON CLARK ELLIS, *IMPACT OF POLITICAL SOCIALIZATION ON THE SUPPORT FOR DEMOCRATIC PRINCIPLES: EMERGING RESEARCH AND OPPORTUNITIES* (2021) (describing how democratic backsliding occurs when one branch of government undermines separation of powers and erodes institutional checks designed to constrain governmental power); EYAL BENVENISTI & GEORGE W. DOWNS, *BETWEEN FRAGMENTATION AND DEMOCRACY*, 165–70 (2017) (discussing how inter-branch conflict generates friction that facilitates the flow of information to the public).

<sup>148</sup> Dothan, *supra* note 142, at 473–76 (explaining the necessity of maintaining checks and balances to ensure branches of government compete against one another, thereby preventing tyranny and abuse by any single branch). See F. W. Walbank, *Polybius on the Roman Constitution*, 47 *CLASSICAL Q.* 73, 75 (1943) (explaining how ancient philosophers like Polybius advocated for a “mixed constitution” as a safeguard against *anacyclosis*); Baron de Montesquieu, *Book XI: Of the Laws Which Establish Political Liberty, with Regard to the Constitution*, in *THE SPIRIT OF LAWS* (Batoche Books ed., Thomas Nugent trans., Batoche Books 2001) (1748) (articulating that governments can protect citizens’ freedoms by separating the powers of the legislator, the executive, and the judiciary).

<sup>149</sup> Björn Dressel et. al., *Courts and Informal Networks: Towards a Relational Perspective on Judicial Politics Outside Western Democracies*, 39 *INT’L POL. SCI. REV.* 573, 575–578 (2018) (describing how judicial elites form informal relational networks that resist internal reform).

diffuse enough so that even if some senior members of the legal elite are opposed to the legal change, other members of the elite may still dare to promote it.<sup>150</sup>

Moreover, those members of the elite who are committed to the idea of change should be gaining some form of social capital for this commitment in a healthy society. By championing a new idea that is gathering support, members of the elite must be able to improve their social position, gaining power and greater social standing. Human beings are fundamentally creatures of interest,<sup>151</sup> and for members of the elite to join the fight towards a new idea is not enough to guarantee their interests are safe; one also needs to guarantee that they would get something in return.<sup>152</sup>

#### D. Public

In all the stories related in this Article, the individual heroes did not limit themselves to addressing elites. They addressed the public directly and sought public support. Lemkin and Dunant wrote books arguing for their cause.<sup>153</sup> Levinson published a pamphlet for a wide audience, hoping to do exactly the same.<sup>154</sup>

In order to initiate a revolution, heroes need to convince at least part of the elite, but to keep the elites on their side, they must have public support. Elites are fickle and cannot be trusted, but with strong public support, individual heroes can ensure that elites will not leave them in the middle of the fight. Elites are dependent on the public for their power and will try not to go against strong

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<sup>150</sup> Mátyás Bencze, Raul Sanchez-Urribarri & Alexander Stroh, *Judicial Populism and the Weberian Judge—The Strength of Judicial Resistance Against Governmental Influence in Hungary*, 22 GER. L.J. 1282, 1297 (2021) (arguing that decentralized judicial structures for appointments, discipline, and career advancement enable judges to resist political pressure and support reforms more effectively than centralized systems).

<sup>151</sup> Hector O. Rocha & Sumantra Ghoshal, *Beyond Self-Interest Revisited*, 43 J. MGMT. STUD. 585, 591 (explaining that the pursuit of self-interest is viewed by some as “the ultimate goal of human action”) (referencing Dennis C. Mueller, *Rational Egoism Versus Adaptive Egoism as Fundamental Postulate for a Descriptive Theory of Human Behavior*, 51 PUB. CHOICE 3, 18 (1986) (“the only assumption essential to a descriptive and predictive science of human behavior is egoism”)).

<sup>152</sup> See Dennis Chong, Jack Citrin & Patricia Conley, *When Self-Interest Matters*, 22 POL. PSYCH. 541 (2003) (finding that individuals are more likely to act on self-interest when their personal stakes in policy decisions are salient or when primed to consider personal costs and benefits of proposed policies). See also HATHAWAY & SHAPIRO, *supra* note 1, at 111–13 (recounting how Levinson persuaded a reluctant Senator William E. Borah of Idaho to endorse a treaty outlawing war by appealing to his presidential ambitions and evoking his political reputation for being “against everything, and for nothing”).

<sup>153</sup> LEMKIN, *supra* note 73. See also DUNANT, *supra* note 100.

<sup>154</sup> HATHAWAY & SHAPIRO, *supra* note 11, at 113–115.

currents in the public unnecessarily.<sup>155</sup> Therefore, getting strong support from a segment of the public is likely to significantly increase the loyalty of elites to the revolutionary cause.<sup>156</sup>

How can a society ensure that reformers will get enough public support? The first step is building a public that is educated and informed enough to take an active interest in legal and political issues.<sup>157</sup> Many routes can lead to this condition, but some elements seem vital: a strong educational system that provides children with the rudiments of knowledge, academic institutions that develop and disseminate research so that it will trickle down to the wider population, and diverse, high-quality journalism that regularly exposes the population to public debates. All these elements require freedom and a high level of material prosperity.

Technology certainly plays a part in the ability of reformers to reach a wide public. Think about the global outreach of Greta Thunberg and her fight against climate change<sup>158</sup> or, a few years earlier, the viral Internet campaign to arrest Joseph Kony under the title “Kony 2012.”<sup>159</sup> These campaigns reached a global audience with only a small investment, something that modern social media makes possible. Today, anyone can communicate with millions using equipment that costs almost nothing. This is a mighty force, a significant step forward even from recent history, where the printing press, phones, radio, television, and other

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<sup>155</sup> See GUNNAR TRUMBULL, *STRENGTH IN NUMBERS: THE POLITICAL POWER OF WEAK INTERESTS* 1-2, 9-23 (2012) (arguing that diffuse interests often prevail over concentrated elite interests in advanced democracies due to greater legitimacy and larger coalitions); Tom Ginsburg, *Authoritarian International Law?*, 114 AM. J. INT’L L. 221, 229 (2020) (explaining that authoritarian leaders fear popular uprisings and potential replacement through revolution from below).

<sup>156</sup> See Sarah Andrews & Lauren Honig, *Elite Defection and Grassroots Democracy Under Competitive Authoritarianism: Evidence from Burkina Faso*, 26 DEMOCRATIZATION 626, 627-29, 639-40 (2019) (proposing that rising grassroots democratic attitudes can compel elites to defect from hegemonic parties, using Burkina Faso as a case study). See also Paul Burstein, *The Impact of Public Opinion on Public Policy: A Review and an Agenda*, 56 POL. RES. Q. 29, 33-34, 36 (2003) (finding that public opinion has a substantial impact on public policy decisions, when studying the phenomenon in the U.S., U.K. Canada, and France.).

<sup>157</sup> See Stephen Lurie, *Highly Educated Countries Have Better Governments*, THE ATLANTIC (Mar. 6, 2014), <https://perma.cc/52AR-C9CD> (explaining that more educated countries have better governments according to a number of global ratings). See also Juan Botero, Alejandro Ponce & Andrei Shleifer, *Education, Complaints, and Accountability*, 56 J. L. & ECON. 959, 989 (2013) (exploring how well-educated citizens are more likely to complain about and report government misconduct, thereby increasing accountability and improving governance).

<sup>158</sup> See Niels G. Mede & Ralph Schroeder, *The “Greta Effect” on Social Media: A Systematic Review of Research on Thunberg’s Impact on Digital Climate Change Communication*, 18 ENV’T. COMM’N 801, 806-08 (2023) (exploring how Greta Thunberg used social media to amplify her message on climate change).

<sup>159</sup> See Johannes von Engelhardt & Jeroen Jansz, *Challenging Humanitarian Communication: An Empirical Exploration of Kony 2012*, 76 INT’L COMM’N GAZETTE 464, 465 (2014) (exploring how online pressure influenced the success of the Kony 2012 campaign).

technologies have already made the world small enough to initiate a global movement with relatively modest means.<sup>160</sup>

The incredible speed at which information can be disseminated is certainly an element that can help reformers push through change. But in order to succeed in revolutionizing international law like the heroes of this paper, there is another element that is just as important—commitment. The public must be both informed and willing to act and to pay the price for the cause they believe in.<sup>161</sup>

Modern society may have devised tools for transferring information faster than ever before, but even before the age of the Internet, social cohesion was significantly eroded. As the book *Bowling Alone*<sup>162</sup> demonstrated a quarter century ago, people tend to spend much less time physically together. They do not build a powerful community with the kind of civic engagement that can sustain a committed group fighting for a certain cause.<sup>163</sup>

The ideal society for social reform is a society that is open and diverse enough to allow for a large variety of opinions and equipped with the technologies and institutions to let these opinions travel rapidly across the public. It is also a society in which people feel close enough to each other to initiate a joint endeavor even when it is costly and difficult to perform. That is a tall order indeed, and no society would perfectly match it. The key is not to strive for such perfection, but rather to make small changes to institutions when there is good reason to believe that these changes can guide society in the right direction.

With a public that is informed and committed, elites that are diffuse and independent, and individuals that are free from harassment, conditions are ripe for revolutions to succeed. This does not mean that stories like the ones related in this paper would occur very often. Thomas Jefferson may have been right when he said that “every generation needs a new revolution,”<sup>164</sup> but this still leaves many years for international law to stabilize between one revolution and the next.

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<sup>160</sup> See Karolina Koc-Michalska & Darren Lilleker, *Digital Politics: Mobilization, Engagement, and Participation*, 34 POL. COMMUN 1 (2017) (exploring how digital platforms have expanded pathways for political participation through enhanced online communication).

<sup>161</sup> See Eric L. Hirsch, *Sacrifice for the Cause: Group Processes, Recruitment, and Commitment in a Student Social Movement*, 55 AM. SOCIO. REV. 243, 244–46 (1990) (discussing how political solidarity—commitment to a cause—is facilitated through group-level processes including consciousness-raising, collective empowerment, polarization, and collective decision-making).

<sup>162</sup> See generally ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* (2000).

<sup>163</sup> C.f. Lisa Dang et al., *Explaining Civic Engagement: The Role of Neighborhood Ties, Place Attachment, and Civic Responsibility*, 50 J. COMM. PSYCH. 1736, 1740 (2022) (exploring how lower social cohesion leads to decreased neighborhood civic engagement, as reduced social connections and trust within communities diminish people’s willingness to participate in public life and contribute to the common good).

<sup>164</sup> LINDA S. THOMPSON, *EVERY GENERATION NEEDS A NEW REVOLUTION* (2008).

## VI. CONCLUSION

The stories related in this paper demonstrate that even the biggest changes in international law can emerge from the initiative of one person without any political power. Yet not every initiative proves successful. There may have been thousands of potential heroes who could have improved the world immensely over the years, but they failed. The question that this paper revolves around is what it takes for an initiative of this kind to succeed.

There are a series of answers that have to do with making societies that allow reforms to grow and gather momentum. Many of these answers may seem simple, even obvious. But the idea that war should be illegal is also a rather obvious idea. So are the ideas that exterminating nations should be a crime and that wounded soldiers should get proper treatment. Important ideas are often very simple ideas. It is just that they often require a lot of effort to secure their acceptance.

The conclusion is that, in addition to passionately fighting for a particular revolution in international law—the kind of revolution that is needed every couple of decades—it makes sense to think strategically about the type of world that would allow such revolutions to succeed. That was the goal of this Article.