‘Complete the Chain of Universal Law and Order’

The first continental conferences of the Friends of Peace and the interdisciplinary dream of peace

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The first continental congresses of the "Friends of Peace" were held in 1848 (Brussels) and 1849 (Paris). A heterogeneous bourgeois audience convened to discuss the abolition of war and standing armies, unearthing a long pedigree of perpetual peace plans, linking them up with the changing nature of national sovereignty and general concerns for societal reform. The professionalisation of international law, or its establishment as a discipline taught by experts, was preceded by scathing criticism from civil society against the traditional diplomatic and military elites, who monopolised the exercise of force. In spite of the Peace Conferences' failure to alter international order through transnational public opinion, discussions stretching from the 1840s to the late 1860s provide insight into the role of legal arguments in political activism. This paper gives an overview of the personal networks and intellectual inspirations converging at these meetings, situated in the immediate "pre-history" of the Gentle Civilizer of Nations (Koskenniemi, 2001).

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The rise of international arbitration is in essence a political story. Activists promote an institutional environment able to tame Leviathan’s insatiable bellicose appetite. However, international lawyers’ perspectives on the past cannot be any more neutral than their present actions. A genealogic enterprise, tracing down the roots of international adjudication, faces the trap of presentism and misrepresentation. The narrative of the 19th century arbitration movement coins itself as the continuation of past dreamers: Sully, Saint-Pierre, Bentham, Kant… Thus, the idea of arbitration is portrayed as having always been on the right side of history, whereas brutal force-driven relations between bloodthirsty Leviathans, or irrational passions in public opinion, were not. Of course, this fails to explain why abandoning the use of force as a legitimate means to settle disputes took until the Briand-Kellogg pact (1928) or the UN Charter (1945). If the outlawing of war was the unavoidable outcome of right reason, why didn’t reason triumph earlier?

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5 Arcidiacono (n 3) 357–363.


9 94 LNTS 57.

10 UNTS.
The intellectual history of international law is often wed with theology and philosophy. Schematic overviews of the discipline emphasize the just war-framework and see positivism in the nineteenth century as an annoying exception in the march towards the establishment of an international rule of law. ‘Classical international law’ is Eurocentric, justified immoral situations and served as a pretext for the domination of Europe over other continents, between the later 18th and the early 20th century.¹¹

The focus of the present article is on the early peace conferences held in Brussels (1848) and (Paris), in an attempt to understand them in the political context. The nineteenth century ‘was far from a teleology of political and economic development’,¹² neither in the political and economic spheres, nor in the regulation of international relations through law. Domestic issues reverberated on the transnational networks that prepared the renewal in the community of international actors.

In 1848, European public law was in turmoil and full transformation.¹³ The Congress of Vienna regenerated the conservative droit public de l’Europe hailed by Gentz, its secretary.¹⁴ The European system lacked institutions, and was unable go any further than a collective conservative

¹³ Terenzio Mamiani della Rovere, Rights of Nations, or, the New Law of European States Applied to the Affairs of Italy (Roger Acton tr, Jeffs 1860); Luigi Nuzzo, ‘Das Nationalitätsprinzip: Der Italienische Weg Zum Völkerrecht’ in Serge Dauchy and Miloš Vec (eds), Les conflits entre peuples. De la résolution libre à la résolution imposée (Nomos 2011); Simon Sarlin, Le Légitimisme En Armes : Histoire d’une Mobilisation Contre l’unité Italiennne (École française de Rome 2013).
management of internal revolts. The restoration of monarchical power was sustained by the common obligation of European monarchs to intervene and repress liberal, nationalist or other dissident domestic movements. Temporary outburst of liberalism could be deflected if an appropriate geopolitical motive was available. Hence the Franco-British support for Greek independence, or for the break-up of the United Kingdom of the Netherlands (1814-1830).

The birth of the peace movement is a corollary of transnational contestation movements. Troublemakers as Victor Hugo, frequently in exile throughout his career, gathered at meetings aimed at the domestication of the eternal sovereign impetus to use war as a means to achieve political aims. Inevitably, the ideals of high-minded intellectuals or religious reformers met with stringent criticism from another social world, that of diplomats, military men and survivors of the Old Regime political culture. Already in 1850, Henri-Alexis Brialmont, future intimus of King Leopold II of Belgium and the later main strategist behind the country’s fortification scheme, published a scathing Éloge de la guerre, ou réfutation des doctrines des Amis de la Paix.

Brialmont condemned the ‘lymphatic thinkers […] dreaming of I don’t know which tribunal of amphyctyons, entrusted with the pacific termination of quarrels between peoples and kings. All

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16 ‘the utopian belief […] that interstate stability based on intrastate stability […] could be achieved through a ‘de-politicization’ of interstate relations by means of a peace treaty’ […] to prevent dramatic change, to ‘freeze time’. Stráth (n 12) 12.
these people are blind, perverted or have bad intentions.’ Brialmont praised war and battles, since ‘not a single one of them has not turned to the advantage of civilisation’. The effective adaptation of arbitration conventions between European states was a logical product of political circumstances. The interest of the peace movement resided in federating transnational public opinion, rather than in the details of ready-made plans of action.

The 1848 Congress of the Friends of Peace: a multidisciplinary assault on the monopoly of international lawyers on peace

The first session on the continent of the Friends of Peace’s conferences was originally scheduled for Paris, the capital of human rights and revolution. Yet, continuous political unrest in France caused the 1848 conference to move to Brussels. In May 1848, the Belgian liberal government led by Charles Rogier (1800-1885) and Walthère Frère-Orban (1812-1896), had successfully deflected revolutionary tensions by lowering the electoral census. Suffrage was granted to the urban middle-class, which established the liberal party as the country’s main governing force until 1870. Rogier, who led the cabinet but acted as Home Secretary at the same time, vigorously supported

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21 Brialmont (n 20) 10.
22 ibid 30. The total opposite of Bentham’s utilitarian evaluation of war (Arcidiacono (n 3) 358.
23 Roelofsen, Handbook
25 Restrictions on the press and on the freedom of association were issued by general Cavaignac, who had smothered a previous left-wing regime in blood. While the Brussels Congress was taking place, the French constituent assembly was still debating the constitution of the Second Republic. See Visscher’s discourse on the history of the peace movement at the opening of the conference. L’Indépendance Belge, 21 September 1848, p. 7. Wilhelmus Hubertus van der Linden, The International Peace Movement : 1815 - 1874 (Tilleul publ 1987) 322.
26 Théodore Juste, Charles Rogier. (1880).
27 Paul Hymans, Frère-Orban (Lebègue 1905).
the Friends of Peace’s initiative. The Liberal francophone newspaper *L’Indépendance Belge* printed extensive reports of the event.

Auguste Visschers (1804-1874), a former judge and top civil servant at the Department of Public Works, took up responsibility for the event. Visschers had been acquainted with the London Peace Society since the 1820s, after graduating at the Liège law faculty. He had a broad interest in penitentiary reform, the abolition of slavery and the development of education. Visschers became a prominent advocate for the abolition of the death penalty and published widely on the subject. He equally was a pioneer urging for better conditions for the working class to prevent the rise of socialism among miners, set up the first pension funds for railroad workers and organized international conferences on statistics together with Adolphe Quetelet (1796-1840). Visschers met Henri Dunant at the 1863 edition of the statistics conference in Berlin, and signed the Convention on the Red Cross as Belgian plenipotentiary.

Visschers was mandated by the Congress to present the resolutions to the British Whig Prime Minister, Lord Russell (1792-1878). He was further involved as Vice-President in the Paris (1849), Frankfurt (1850) and London (1851) sessions. Visschers equally enrolled in the *Ligue universelle du Bien Public*, founded in Antwerp by the Frenchman Edouard Potonié (1858). The association promoted free trade, the abolition of standing armies and the creation of an international arbitration tribunal. Nine years later, he was made Vice-President of the new *Ligue de la paix et de la liberté*,

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29 The journal is accessible online, thanks to the Belgicapress project (Belgian Royal Library; http://belgica.kbr.be/nl/coll/jour/jour_nl.html; last accessed 1 September 2017).

founded in Geneva. He was one of the initiators of the Brussels Conference of 1873, calling for the foundation of an international organisation to codify the Law of Nations. Visschers’ activism thus spanned two generations of peace initiatives.

The Brussels Conference was opened on the evening of 20 September 1848 in the Société de la Grande-Harmonie. The room was amply decorated with Belgian flags, busts and flowers, accompanied by the colours of the United Kingdom of the Netherlands, Great-Britain, the Frankfurter Congress, France, the United States and Young Italy. Visschers presided over the congress, assisted by four deputies: Elihu Burritt (United States), William Ewart (Britain), Francisque Bouvet (member of the French constituent assembly) and Joachim Willem Suringar (Netherlands). After a brief history of the transnational peace movement, Visschers recalled Bacon’s maxim according to which the power of human society resides in human understanding (intelligence). The feather trumps the sword! Only public opinion is more powerful than guns and bayonets. Humanity follows the march of progress, enshrined in its creator’s mind. All forms of human organisation are temporary and subjected to the evolution of the mind. The association or federation of tribes was deemed to transform into the federation of the great human family!

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31 L’Indépendance Belge, 21 September 1848, p. 7.
33 Bouvet had been among the French volunteers in the Greek War of Independence and was at the forefront of the 1830 July Revolution. See Bois (n 4) 507. Carol Bergami, ‘Quelle Démocratie Pour Quelle Organisation Internationale ? Le Pacifisme Français et La Naissance d’un Constitutionnalisme Républicain, 1840-1889’ [2014] Les Cahiers de l’IRICE 17.
34 Joachim Willem Suringar (1810-1892), Calvinist priest in Maastricht from 1841 on. See J. Herderschee, ‘SURINGAR (Joachim Willem)’, Nieuw Nederlandsch Biografisch Woordenboek, 1890 [http://www.dbnl.org/tekst/molh003nieu04_01/molh003nieu04_01_1890.php, last accessed 29 August 2017]. Suringar refused the vice-presidency on behalf of Germany, since the two states of the Netherlands and Germany constituted, in his eyes, two separate entities. Only the latter’s loyalty to the cause of peace was an established fact. L’Indépendance Belge, 21 September 1848, p. 7.
A common reference to all participants, the amphictyonic council or ‘supreme Senate’ of all Greek ‘confederated republics’ had assured Greek prosperity for fifteen centuries before succumbing to Philip of Macedonia’s ‘tyranny’. The ‘Teutonic Hanse’ or the ‘Helvetic Union’, leagues of independent states, with a General Diet, were other shining examples. Visionary schemes such as that of Sully or Saint-Pierre had been ahead of their times. Yet, the nineteenth century was definitely experienced as a new era. Popular representative assemblies all over the continent analysed problems ‘reduced to questions of money’. Did Britain gain anything from her ruinous expenses in the wars against the French Republic or Napoleon? The time of conquerors was over. Old prejudices and barriers had disappeared.

These references to the past should be treated cautiously. Errors in historical analysis were quite common, and the participants to the peace conferences were children of their time. Buckingham, on the first day of the Brussels conference, emphasised that he did not uncritically revere the past. Personal travel to the ruins of Niniveh, Palmyra, Thebes or Babylon had shown the absurdity of human conflict, which brought down ‘erstwhile powerful and so renowned cities, superior in surface, population and wealth to modern ones, to a piece of debris, inhabited by isolated shepherds.’

At the Brussels Conference, Visschers proposed in the evening session of 20 September 1848 to recall states that ‘religion, reason, justice, humanity and the people’s interest alike condemn the use of arms to settle international disputes. The civilised world has the duty to adopt measures

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leading to the entire abolition of war.\footnote{L’Indépendance Belge, 22 September 1848, p. 5.} The arguments used to convince statesmen differed but little of Saint-Pierre’s: abolishing standing armies would generate budget cuts\footnote{Pierre Renouvin, L’idée de Fédération Européenne Dans La Pensée Politique Du XIX Siècle (Clarendon Press 1949) 9; Charles-Irénée Castel de Saint-Pierre, Projet Pour Rendre La Paix Perpétuelle En Europe (Schouten 1717) I, 338.} and destroy the ‘armed stoppage of the work of nations’\footnote{Bo Stråth, ‘Perpetual Peace as Irony, as Utopia, and as Politics’ in Thomas Hippler and Miloš Vec (eds), Paradoxes of Peace in Nineteenth Century Europe (Oxford UP 2015) 279.}; friendship and trade between nations would bolster the economy, turning ‘men living at present a life of idleness’ into ‘industrious citizens.’ It should not come as a surprise that this was supported by Richard Cobden (1804-1865).\footnote{Arcidiacono (n 3) 373; John McGilchrist, Richard Cobden, the Apostle of Free Trade. His Political Career and Public Services. A Biography (Harper & brothers, 1865) <http://www.columbia.edu/cgibin/resolve?ATU8770>.} In a letter to the 1848 conference, he pleaded for a mandatory mediation clause in bilateral agreements, compelling the signatory parties to submit differences resulting from their treaty to a panel.\footnote{L’indépendance Belge, 22 September 1848, p. 6.} Millions of citizens ‘\textit{dans la force de l’âge}’ were cut off from the labour market. Paying them and their arms laid an unbearable stress on the industrious populations of Europe during times of economic duress, and was a logical explanation for the revolutionary waves rocking so many states! Only barbarous nations had to arm themselves permanently against unexpected attacks from savages.\footnote{In the same vein Bouvet : ‘why should a fourth or a third of a civilized nation’s annual budget be spent in the upkeeping of armies, whose smallest inconvenience deprives agriculture and industry of their most able and vigorous men?’ (L’Indépendance Belge, 21 September 1848, p. 8).} Hence, the laws of nature and economics, would create a natural harmony with the development of nations.\footnote{Renouvin (n 39) 7.} Cobden’s message was reinforced by the Irish delegate Somerset, who recalled the success of the Anti-Corn Laws campaign. Public opinion, and more specifically the repercussions on the individual voter’s purse, were the best weapon to assault entrenched habits!\footnote{L’indépendance belge, 22 September 1849, p. 6.}
The philosophical analogy with the domestic or familial state of nature surfaced during the intervention of Armand-Adolphe Roussel (1809-1875), law professor at the ULB and eloquent attorney, who claimed the highest degree of happiness was to be found in what was good for the individual and his family.46 Again, nothing new compared to Saint-Pierre’s treatise.47 Roussel blamed the darkness of general ignorance for the failure to accept arbitration. Future generations would ask what one had done to his brothers, and shrug at the false prejudices or routine that had discarded the evident solution. Anybody could be a better judge than the mysterious mechanisms of war. ‘A little judgement’ would be better than so many canon shots! Quarrels between nations concerned honour, dignity or property. All three motives were equally present between private persons!

The proudhonist Ramon de la Sagra (1798-1871)48 astutely answered that abolishing standing armies meant abolishing the force ensuring respect for the rule of law. ‘Why debate the utility of peace, when everybody already agrees on this point? Why don’t we have peace all over the world? Because there is no agreement, no harmony […] Laws rest on force. Tribunals are guaranteed by brutal force, by armies.49 Supress the armies, and there will be no sanction to our laws.’ Submitting ‘the big affairs of nations’ to arbitration, is simply impossible: ‘To have a sentence accepted, force needs to be behind it. What means to have the decision respected? If we abolish standing armies, who will obey? Nobody. I would send the arbiters out for a walk…’

47 Castel de Saint-Pierre (n 39) I, xxv.
48 Wilhelms Hubertus van der Linden, The International Peace Movement: 1815 - 1874 (Tilleul publ 1987) 327. Bois (n 4) 508. Bois was a member of the Cortex in Madrid and published on primary education and welfare establishments. On Proudhon’s Du principe fédératif, opposed to the national movements in Italy and Germany, see Gaurier (n 28) 914.
49 In the same vein: ‘The army […] is a union of men destined to give force to the law, internally as well as externally. Externally, the law consists of the law of nations, or the rules of general equity prescribing foreigners not to harm us in our honour or interest.’ Brialmont (n 20) 33.
Furthermore, Ramon de la Sagra warned that the proliferation of civil wars throughout the world rendered arbitration even more impracticable. Who could enforce a decision on rebels?

Buckingham replied that if war could not be abolished, neither could theft, deceit or treason. Recent examples of interstate arbitration, moreover, showed that states could well acquiesce in a sentence and not resort to war: France and the United States submitted pecuniary disputes to Britain. Austria and Italy sought French and British mediation for their quarrels… Moreover, if arbitration were impossible between states, why not abolish established tribunals for individuals, and return to times immemorial, when vassals clashed to settle their differences? Only an international code and a Supreme Court of Nations could muzzle war.

Bouvet defended Elihu Burritt’s proposal to establish an international legislature, assembling delegates from as many states as possible, to establish a treaty text counting as International Code. After ratification, the delegates would continue their work and appoint a Supreme Court, entrusted with the enforcement and interpretation of the common norms.50

Giuseppe Bertinatti (1808-1881), professor in Turin and former Parisian pupil of Pellegrino Rossi (1787-1848),51 argued that the talks establishing a true international congress, with delegates mandated by every state, needed to enact a fundamental transformation of international law. The product of the new assembly’s work should not any longer pertain to the ‘droit des gens européen’, the ‘droit public de l’Europe’, but to a true cosmopolitan law. International law could not be restricted to ‘some points more or less remote from either the equator or a pole’, but should incorporate the possibility that ‘some new state would be constituted afterwards’. The congress should elaborate criteria for this new entity to take rank between the others already admitted to

50 L’Indépendance Belge, 21 September 1848, p. 6. 
51 Linden (n 25) 327.
participate in legal relations, and subject to the obligations stemming from them. Would co-optation be dependent on the new state’s own initiative, or would it rather be subject to some means of coercion? Shouldn’t the Congress delimitate the right of a navigator arriving in a hereto unknown region?52

The ‘law of nations’ as it had been established by the past, had civilised the world. Yet, some of its principles had generated bloodshed and devastation. Instead of merely following its ancestors, the new assembly should make a rational set of rules prevail, for the benefit of humanity!53 Following Bentham, Bowring and Wheaton, Bertinatti pleaded for the emancipation of all colonies, the reduction of armaments and the codification of hitherto unwritten rules. Diplomats should no longer represent the physical person of the monarch, tied to problems of succession. No wonder these were often military men, with their eyes glued on war as the ultima ratio regum! If diplomats ought to represent the ‘collective majority of the people’, they should now be recruited among philosophers, men of law, used to look where the right and the low originate, and not force. No professional warmongers, talking of peoples’ and King’s grand interests, but rather true servants of the state. There was but one example Bertinatti thought suitable, that of US Supreme Court judges. If their function was distinct from a diplomatist’s, practical and theoretical knowledge, the same calm and independence were equally necessary. The reference to the United States was, of course, no coincidence. The American Peace Society’s founder, William Ladd (1778-1841), promoted the American constitutional model in his Essay on a Congress of Nations (1840), praising judicial power and the power of public opinion.54

52 Andrew Fitzmaurice, Sovereignty, Property and Empire, 1500-2000 (Cambridge University Press 2014).
53 Indépendance Belge, 22 September 1848, p. 6.
54 Gaurier (n 28) 916; William Ladd and others, Prize Essays on a Congress of Nations: For the Adjustment of International Disputes and for the Promotion of Universal Peace without Resort to Arms ; Together with a Sixth
Bertinotti realised that the problem of international relations at his time was intimately linked with constitutional issues. The ancient balance, as it had been established in Münster, Osnabrück or Utrecht, did not count religious beliefs, linguistic identity, legislation, literature, traditions or ‘anything that constitutes the ethnographic or political element of a people’. Why not partition the world in so many distinct entities, their own masters, self-governing by virtue of their proper autonomy and linked to the great human family, by the ties of a confederation based on justice and fraternity? Free trade (or commercial liberty) would in any case visit the four corners of the world.\(^{55}\) Inevitably, this would generate the political confederation of all peoples. Needless to say, the confederation would need to dispose of every state’s monopoly of violence.\(^{56}\) Prejudices against free trade faded away, just as those underpinning the system of domination and conquest. In the same vein, Bouvet had already proposed the construction of a railroad from the Mediterranean to the Euphrate or through Egypt to reach the Indies, or even digging a canal in Corinth or Panama!\(^{57}\)

Again, de la Sagra replied that the Congress’s enterprise was absurd. Delegates from all nations would be sent by the ruling elites, not by the people. Consequently, the same kind of negotiators that brokered the settlements of 1814-1815 would not have the slightest interest in the transformations proposed by the Friends of Peace!\(^{58}\) Without the general introduction of universal suffrage, the Congress could never achieve its aims. Moreover, the several sovereign entities in...
Europe had distinct opinions on morality, values or internal legal norms. How could uniformity emerge from contradictory and heterogenous diversity? Finally, the majority principle at the Congress would tyrannically eradicate alternative options. Yet, as majorities shift all too rapidly, the Congress would become the prey of ‘anarchy’, just as the majority system engulfs states where it is practiced.59

Ewart responded to Spanish scepticism by pointing to the power of public opinion. Wherever the opinion of the law is not that of the public, Ewart argued, the latter ‘loses the greater part of its binding force, and disappears’.60 Yet, de la Sagra’s comments should be compared to Bouvet’s ambitious design to ‘redraw borders’. The French delegate had proposed to annexate Walachia to Austria, to retain just Trieste in Italy, and to transform the latter into a pan-German harbour. The petty states of Germany had been condemned until then to use ‘Prussia’s, the Hanseatic or the Dutch ships’.61 On the other hand, Bouvet’s reply to de la Sagra’s prediction of scepticism appealed to the rising tide of governmental accountability: ‘if they answer [us] with the word utopia, point them to their own miseries, their financial and commercial situation, the incessantly rising pauperism, in the midst of agricultural and industrial abundance, without any clear cause to explain this phenomenon but universal chaos!’62 All over the world, forms of government faded away, isolated and powerless, crumbling as struck by fatality. The treasuries of

59 L’Indépendance Belge, 22 September 1848, p. 7.
60 L’Indépendance Belge, 22 September 1848, p. 7.
61 L’Indépendance Belge, 21 September 1848, p. 8.
62 ‘L’inorganisme universel’. See also the work by Johann Sartorius, Organon des vollkommenen Friedens (1837), crowned by the Genevan Peace Society: Renouvin (n 39) 5.
all nations had been emptied by crushing debts.\textsuperscript{63} ‘These are no utopias, but imposing, pressing, decisive arguments!’\textsuperscript{64}

Ewart joined Bouvet. The example of the abolition of slavery had taught an important lesson.\textsuperscript{65} Ridiculed and hated at first, abolitionists but triumphed against prejudice, hostile interest and the most formidable opposition, both in Britain and in France.\textsuperscript{66} As a Scot, Ewart professed his sympathy for France and wished both Britain and France to prosper, irrespective of ‘\textit{ces vieilles absurdités}’, imposing the happiness of one nation by degrading the other.\textsuperscript{67}

\textbf{The Paris Conference, August 1849: the United States of Europe?}\textsuperscript{68}

The next gathering could take place in Paris.\textsuperscript{69} Other scientific networks had joined the movement, such as the Belgian Royal Academy for Science, Letters and Arts.\textsuperscript{70} The Brussels conference had held broad discussions on the obsolete nature of war in an age of growing interdependence and democratic revolution.\textsuperscript{71} The Paris conference ought to come closer to the most arduous points: ‘the establishment of international arbitration’, the adoption of a ‘code of public law’, and the ‘general interdiction of armaments’.\textsuperscript{72}

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\item \textsuperscript{63} Ewart likened the burden contracted by the British state to a father burdening the successive generations. This domestic analogy could also explain the harm of war, since its effects were seen as lasting well over the span of a generation. \textit{L’Indépendance Belge}, 21 September 1848, p. 8.
\item \textsuperscript{64} \textit{L’Indépendance Belge}, 21 September 1848, p. 8.
\item \textsuperscript{66} The presence of philanthropist Joseph Sturge (1793-1848), author of the anti-slavery tract \textit{The West Indies} (1837), was no coincidence. In total, 158 British and American visitors attended the congress, against 170 Belgians. Linden (n 25) 326.
\item \textsuperscript{67} \textit{L’Indépendance Belge}, 21 September 1848, p.8.
\item \textsuperscript{68} Renouvin (n 39) 3.
\item \textsuperscript{69} Garnier and universelle (n 28).
\item \textsuperscript{70} \textit{L’Indépendance Belge}, 23 August 1849, p. 6.
\item \textsuperscript{71} Discourse held by the Belgian Academy: ‘the perspective of a new Europe, where imperious monarchies and constitutions not resting on democratic elements, will disappear’ (\textit{L’Indépendance Belge}, 23 August 1849, p. 5).
\item \textsuperscript{72} \textit{L’Indépendance Belge}, 23 August 1849, p. 5.
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In its intervention at the Congress, the Belgian Royal Academy presented the results of its paper competition on the banishment of war. Between the numerous considerations of the several competing authors, the condemnation of the ‘classical’ law of nations seemed evident. In its publication of the session’s report, *L’Indépendance Belge* mentioned Adolphe Quetelet’s condemnation of the law of nations: ‘under the name of law of nations, [states] have decided on some forms rendering the crimes states commit between themselves less odious.’ The victor of the competition was Louis Bara (1821-1857), a lawyer from Mons. In the same vein as Quetelet, Bara’s writings echoed dissatisfaction expressed earlier by Voltaire or Frederick the Great, deriding the effectiveness or even the sincerity of the *droit des gens*. As philanthropy, liberal activism and religious zeal pushed progressive elites to tackle the problem of peace, lawyers ought to lose their monopoly on the definition of the concept.

The law of nations was powerless, subject to the interpretation of the strongest party and prey to the ‘miseries of empiricism.’ Again, the domestic analogy should lead the congress to drafting several codes of international life, akin to the French codifications of municipal law at the beginning of the century. A ‘commercial code of peoples’, guaranteeing free trade, ‘a political law of peoples’, forging their mutual alliance, an ‘administrative law’, establishing a common administration for public works, a ‘penal law of peoples’, punishing ‘guilty nations, if necessary’,

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74 Nadine Lubelski-Bernard, ‘BARA (Louis-Adrien)’, *Biographie Nationale de Belgique*, vol XLIII (Bruylant) 34. *Mémoire sur les meilleurs moyens à employer pour parvenir à l’abolition de la guerre* (published in 1872 as Louis Bara, *La science de la paix* (Garland Pub 1972). Bara graduated as doctor of law at the Université libre de Bruxelles, but found more pleasure in an erudite desire to redraft the science of law by borrowing from neighbouring disciplines, than at the bar of Mons, a provincial capital. The second and third prizes were won by a student and a civil servant at the Belgian Foreign Office. Linden (n 48) 338.
76 *L’Indépendance Belge*, 23 August 1849, p. 5.
finally, a ‘code of procedure of nations’ (replacing *ad hoc* international arbitration) and an ‘international law’ (containing the principles of the law of nations).

Coupling the power of public opinion and the ‘power of law’, the Academy’s selected paper counted on the general education of the law of nations in military and diplomatic academies. If negotiators and military men alike favour the abolition of war, the attention of the masses would follow. History should be overhauled altogether: no more teaching glorifying destruction and massacre. Literature and arts drop their martial phantasy, and only pledge allegiance to benefactors, not murderers. The prejudice of false grandeur and unjust inequality fade away with ignorance and tyranny.

The Paris conference had received the support of Alphonse de Lamartine (1790-1869), who had strongly revisionist ideas on the European balance of power, based on the reinforcement of democratic government. Lamartine had been defeated by Louis Napoleon Bonaparte in the presidential elections of December 1848. France was still in a declared state of emergency following the tumultuous events of Spring 1848, which included the suspension of the right to assemble peacefully. The meeting in the Sainte-Cécile room would last for three days (22-24 August). It was presided and opened by Victor Hugo, in one of his more remarkable, powerful and pugnant public discourses.

Conformably to the ongoing political transformation process in Europe, the redaction of a code of law was seen as a transnational phenomenon. In his plea for a ‘congress of Nations’, Burritt argued that a simultaneous process ought to bring both an international congress of

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78 Bois (n 4) 511.
delegates and national legislatures to the progressive adoption of a text, clause by clause. Burritt elaborated further on the ‘High Court of Nations’: each Nation ought to select ‘two of its most profound and eminent men’ to fill the seats allotted ‘in this grand tribunal’. Remark that Burritt does not necessarily think of lawyers! The position of judge is an ethical one in the first place: ‘the most sublime position to which the suffrage of mankind could raise them’. Members of this bench will ‘act, we may presume, under a proper sense of the dignity and responsibility of their high vocation.’ The Court would be the ‘highest Court of Appeal this side of the bar of Eternal Justice.’ Decisions needed to be ‘assimilate[d] […] to those of unerring wisdom’, and thus ‘complete the chain of universal law and order’, organizing a system connecting ‘the great circles of humanity’, regulating ‘the mutual development of nations by the same principles of justice and equity as govern the intercourse of the smallest communities of men’.

Yet, the ambitions of the congress of nations should not go as far as to modify existing polities: the ‘complete independence’ of nations would be safeguarded. Congress nor High Court of Nations would be able to ‘exercise any jurisdiction over the internal affairs of a country, or exert any direct political influence upon its institutions’. Burritt assured that a confederation of ‘the different states of the civilized world in a political union, like the United States of America’, was out of reach. In no way could the Court be likened to the ‘Supreme Court of the United States, to which not only the thirty little republics, but every inhabitant of the union, may appeal for its

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81 Burritt (n 80) 171.
82 ibid.
83 ibid.
decision in any case which cannot be settled by inferior authorities.\textsuperscript{84} States would always have the primary option to negotiate, and would need to agree on submitting their case for arbitration to the High Court, ‘with as much confidence as the different states of the American Union now submit their controversies to the decision of the Supreme Court’.\textsuperscript{85}

Hugo invigorated the audience in Paris by opposing the peace activists to ‘statesmen having grown old in the management of affairs.’\textsuperscript{86} Fraternity between all humans beings was at the heart of the peace question. This value was more compelling than any motivation for war. If the latter clearly constituted the past, the shining future was to peace. Medieval Europe had seen strife between parishes, towns and provinces. Lorraine, Picardy, Normandy, Brittany, Auvergne, Provence, Dauphiné or Bourgogne had solved their quarrels by cutting throats. A simple and evident substitute would arrive in modern times: the ballot box! Citizens felt their own beating hearts in popular assemblies, acting as ‘sovereign and popular councils’, deciding, judging and solving oppositions by law. Glaives are dropped, and justice soars in all hearts. Who would have believed this in medieval times? Hugo proclaimed his faith in the merger of all nations. One day, war would become ‘as absurd and impossible’ between Paris and London, Saint-Petersburg and Berlin, as between Rouen and Amiens, or Boston and Philadelphia. The merger of all nations in superior unity would respite everyone’s distinct qualities and ‘glorious individuality’.

The only battlefields remaining, would then be those of commerce and ideas. Bullets and bombs will give way to universal suffrage, conferring legitimacy to a ‘grand and sovereign Senate’, acting for the continent as Parliament did for Britain, the Diet of Frankfurt for Germany and the

\textsuperscript{84} ibid. Accessorily, Burritt developed the idea of a court of justice representing Asia, Africa and America, with a fixed seat in Venice, following Emeric Crucé’s \textit{Nouveau Cynée} (1623). Bois (n 4) 512. On Crucé: Arcidiacono (n 3) 213–218.

\textsuperscript{85} Burritt (n 80) 172.

\textsuperscript{86} \textit{L’Indépendance Belge}, 23 August 1849, p. 5.
Legislative Assembly for France. Canons would be exposed in musea as ‘instruments of torture’, to the amazement of the public. Common efforts would map the globe, colonise the deserts and ameliorate the creation under God’s own eye. The enthusiastic speed and fury of time would not make this last for four hundred years. In the nineteenth century, a year could well span the work of an entire century!\textsuperscript{87} If England had initiated the first step, for centuries, telling the peoples of Europe they were free, France had just incited them to become sovereign. The logical third one would unite Frenchmen, Englishmen, Belgians, Germans, Italians, Europeans and Americans in a single cry: ‘you are brothers’. The public rose in ‘sensation vive’, the Anglo-American delegates waiving hats and handkerchiefs, crying ‘Hip! Hip! Hip! Hurrah’, at Cobden’s instigation.

\textbf{From Christianity to humanity}

Victor Hugo explicitly invoked ‘God’ or the ‘Creator’ at several occasions in this often-cited speech. One cannot avoid the religious origins of the Anglo-American peace movement. Yet, these religious are often seen as a point of weakness, and a reason for the failure to achieve political success in an era of conflict between state and religion.\textsuperscript{88} The union of delegates on the smallest common vague denominator amounted to a repetition of ‘pious wishes without the slightest perspective of execution’\textsuperscript{89}. Calls by the American evangelist Elihu Burritt (1810-1879)\textsuperscript{90} to stop the conflict between the German Confederation and Denmark over Schleswig-Holstein\textsuperscript{91} do not

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\item[87] \textit{L’Indépendance Belge}, 23 August 1849, p. 5.
\item[88] Vec (n 75) 32; C Clark and W Kaiser, \textit{Culture Wars: Secular-Clerical Conflict in Nineteenth-Century Europe} (Cambridge University Press 2003).
\item[89] Bois (n 4) 514.
\item[91] \textit{L’Indépendance Belge}, 18 October 1850, p. 2.
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\end{footnotesize}
invoke the interests of ‘humanity’, but of ‘Christianity’. William Penn is often cited as an example, as the peace movement knew its first strong upswing in the early 19th century Quaker circles. The origin of peace initiatives in the United States, with journals as *The Christian Disciple* or the *Christian Examiner*, explains the transfer to societies such as the Société de la morale chrétienne (Paris, 1821), represented by an aristocrat as the duke de la Rochefoucauld-Liancourt.

At the Brussels Conference (September 1848, see further), Henry Clap states that ‘the law demands the good and forbids evil’. War and slavery are inhuman and illegal, because they are the expression of evil. There cannot be two codes, one for the individual and the other for society. What is immoral for an individual must be immoral for humanity as a whole. I am not aware of any moral chemistry that can enact this transmutation.'

Chemarovzow, member of the British Peace League and president of the Protection for the Protection of Aborigines, communicated a letter from Edmond Fry, according to whom time had come to examine whether the ‘custom of nations to decide their quarrels by using armed force, was in agreement with the spirit of religion […] Criminal actions on behalf of an individual should not be considered less criminal on a nation’s behalf.’

We should not overestimate the religious appeal of this argumentation. God and humanity were quickly taken as a synonym for humanity. In 1848, the intervention of Francisque Bouvet, set the tone differently. The focus should not be on an analogy with Christian morals, but on the

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92 *L'Indépendance Belge*, 18 Oct 1850, p. 5. See also *Ibid.* p. 6: ‘The Old Testament was designed for one single nation. Christianity is universal, and united all men by links of brotherhood. Didn’t Christ state that ‘there is only one father God, and you are all brothers?’

93 Renouvin (n 39) 4. Lynch (n 65) 206. Gaurier (n 28) 442–444.

94 Bois (n 4) 507.

95 *L'Indépendance Belge*, 22 September 1848, p. 7.

96 Bois (n 4) 511.

97 *L'Indépendance Belge*, 21 September 1848, p. 7. Note also the engagement of Edouard Ducpétiaux, Catholic penitentiary reformer, in the committee. Linden (n 25) 326.
sempiternal victim of the unsatisfactory state of affairs: humanity. The cries of this victim should alert congress participants, and tear up their hearts. The congress needed to convince governments of the existence of a justice elevated above barbarous and murderous combat. Bouvet argued that the new French Republic ought to take the lead in this. The ideal occasion to shred suspicions of conquest or memories of Robespierre’s Terrors. The Republic would not liberate other peoples by force, but propose the creation of a Tribunal above states. This ‘unitary jurisdiction’ would elevate itself above the nations of the world, applying the absolute law of nature of all societies and that of all harmony. Unity had always been the goal of humanity. Its silent advancement over time used to be a matter of military heroism or religion: Caesar, Tamerlane, Charlemagne, Napoleon, Pope Gregory VII or the prophet Mohammed have been the fragile instruments of the ‘invincible tendency of peoples towards the unitary attraction, where the bed of human rest lies.’ At the time of the Brussels Congress, Bouvet saw this mission entrusted to the Czar! The unity of humankind should however not be achieved by imperial conquest and absolutism, but in an ‘impressive social representation, capable of fixing the chaotic elements of sociability in the ‘common law of nations’. 

The common interest of humankind could not be embodied by the Catholic Church as institution. Bouvet explained that this institution had ‘failed to understand the beautiful future and elevated mission’ that was hers. The primitive Church had the potential to maintain herself in ‘a

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98 This would lead Bouvet to distance himself from Protestant peace-thinking as well as British free trade-discourse. Whereas religious zealots present themselves as apostles of gospel, free trade-arguments for peace were prompted by a ‘narrow commercial spirit’. ibid 489. See also Francisque Bouvet, La Guerre et la civilisation. (Dentu 1855).

99 L’Indépendance Belge, 21 September 1848, p. 8.

100 L’Indépendance Belge, 21 September 1848, p. 8.

101 L’Indépendance Belge, 21 September 1848, p. 8.

102 L’Indépendance Belge, 21 September 1848, p. 8.
spirit of universal and free representation’, but had let herself drift away in a contrary direction, up the point where she was incarnated entirely by a single ruler! True reason was smothered in the Church. Despotism reigned where liberty ought to have been eternal, to further the cause of morality and societal well-being. If only the councils of the early Church had persisted… supreme jurisdiction and the regulation of universal progress would have been in place since times long past. The Church had chosen to retreat high above the rest of society, on its rock of Trent, dominating the ocean of modern civilisation. Time and time again, she repels the tide of universal life hitting her. One day, the Church will be finally submerged! In the run-up to the peace conference, Elihu Burritt, founder of the Human League of Brotherhood, insisted on having ‘religious ideas and phrases’ included in the ‘principles which formed the basis of the Peace cause’, after discovering the Belgian hosts had first excluded them. This already indicated a move from the ‘older’ generation of Anglo-American religious pacifist movements and their conservative leadership, as Cecilia Lynch classified them, to a more progressive bourgeois movement of ‘liberals, freethinkers and socialists’. Its successor, the Ligue internationale de la paix et de la liberté, would even take an overtly anti-clerical stance at the ‘masonic’ Geneva conference of 1867, honoring Garibaldi, and condemning the papacy as a ‘pestilent institution’.

Context

103 L’Indépendance Belge, 21 September 1848, p. 8.
104 See also François Laurent, Études Sur l’histoire de l’humanité (Gand 1850); Frederik Dhondt, “‘L’histoire, Parole Vivante Du Droit?’” François Laurent En Ernest Nys Als Historiografen van Het Volkenrecht’ in Bruno Debaenst and Dirk Heirbaut (eds), De Belle Époque van het Belgisch Recht (Die Keure 2016).
105 L’Indépendance Belge, 21 September 1848, p. 8.
106 Linden (n 25) 326.
107 Lynch (n 65) 205.
In spite of Hugo’s wonderful speech, the French Second Republic would shift to a despised regime with mock elections, censorship and political persecution in December 1851. Napoleon III, who received a delegation of the friends of peace on 1 September 1849, became an authoritarian leader, and would rearrange the map of Europe in the ensuing decade. Piemonte annexed Lombardy and abandoned Nice and Savoy to France. The Kingdom of the Two Sicilies was liberated by Garibaldi. The Papal State, whose international legal personality was highly symbolic to Catholic opinion across Europe, seemed threatened. Humanitarian intervention in Syria projected Napoleon III as the protector of Christians in the Orient. The projected plans to assemble a congress charged with the codification of international law seemed obsolete by the middle of the 1860s. Berlin, as Prussia’s capital, and no longer Frankfurt, as the centre of the German constituent assembly, had become a point of reference. While the Brussels Peace Congress was assembled, a gathering of liberal lawyers, politicians, bureaucrats and other burghers debated on the legal nature of the German political space. The Prussian army scattered the talks in June 1849. The liberal Constitution, adopted in March 1849, would only serve as a source of inspiration..

Furthermore, the voices cited above come from a heterogenous, but still mostly progressive camp. Brialmont, in his damning attack against the Friends of Peace, assimilated all participants with (dangerous) socialists: ‘let them [the socialists and the friends of peace] proclaim the

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110 Victor Hugo, Napoléon Le Petit (Mertens 1852).
111 Linden (n 48) 447.
113 Yves Bruley, La Diplomatie Du Sphinx (CLD 2015).
inevitable triumph of public opinion over war, and of the feather over the swords; let them shout out ‘No more Marengos! No more Trafalgars’; Let them send out their vigorous manifestos to peoples and Kings. Nothing will change!’.

Brialmont answered Cobden’s calls for transnational disinvestment in the armed forces with the sentiment of the age, that of nationalism: loyalty to one’s own political entity prohibited a naïve abandoning of armed force:

‘The winds of discord blows over all beaches. From North to South, from sunrise to sunset, banners are unfolded, waiting but for a signal. We should be ready […]. Let’s arm and not disarm. I don’t think highly of citizens, or statesmen, giving at this time a different advice […]. A good army is the best safeguard against war. In nine cases out of ten, it is sufficient to be judged able to start a campaign. Si vis pacem, para bellum!’.

Even if Brialmont’s warnings were directed against the partisans of ‘le gouvernement à bon marché’, and thus meant to safeguard the army’s position in the national budget, the overtone of his writings conforms to the political evolutions of the ensuing decades in Europe. The very limited domestic participation in the 1849 Paris conference (no more than hundred French attendants, against 350 Brits) equally was a warning sign on the representativeness of the undertaking: the chaos of 1848 had generated an aversion against the left. Anglo-American free trade thinking and Protestant religious zeal had further alienated the French. Barely twenty Belgians were present, and just two Germans. The situation seemed rolled back to the first ‘exclusively Anglo-American’ conference of 1843. Old lines of fracture

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115 Brialmont (n 20) 57.
116 ibid.
117 The House of Commons took Cobden seriously and reduced the armaments budget, leaving ‘just a policing service’ to the army in the colonies. L’Indépendance Belge, 3 April 1851.
118 Linden (n 25) 335.
119 Hippler (n 24) 171.
resurfaced.\textsuperscript{120} Napoleon III’s economic liberalism, which resulted in the Paris Declaration\textsuperscript{121} and the free trade-Cobden treaty,\textsuperscript{122} or his aborted tentative of a general European conference,\textsuperscript{123} went together with crude and basic annexation instincts towards neighbouring countries as Belgium and Luxemburg,\textsuperscript{124} his imperialist design in Mexico,\textsuperscript{125} or, fatal mistake, his 1870 declaration of war against Prussia, based on a snub received in the succession to the Spanish throne.

**Epilogue**

Conference delegates in these ‘bourgeois assemblies’\textsuperscript{126} were enlightened progressive intellectuals, part of their respective nation’s elite,\textsuperscript{127} who often had travelled extensively and established pre-existing networks. The ties with the free trade-movement, abolitionism, philanthropism expressed in prison reform or solutions for the misery of the labour class, show a desire to rejuvenate the classical law of nations,\textsuperscript{128} by enlarging the perimeter of its practitioners. Diplomats and military men seemed less virtuous than merchants, scientists or artists.\textsuperscript{129} Their legitimacy had come under pressure due to the unstoppable élan of revolutionary principles, which the Congress of Vienna had been unable to smother. National or popular sovereignty on the domestic scene implied a necessary

\begin{footnotesize}
\begin{enumerate}
\item Robert Tombs and Elisabeth Tombs, *That Sweet Enemy: The French and the British from the Sun King to the Present* (W Heinemann 2006).
\item Linden (n 48) 496–497.
\item Ibid 512.
\item Charles Woeste, *La Neutralité Belge. La Belgique et La France* (Société belge de librairie/Nouvelle librairie parisienne 1891).
\item Ibid (n 25) 562.
\item Ibid 175.
\item See also the Belgian economist Emile de Laveleye’s work on the establishment of an international code and ‘high court of nations’: Émile De Laveleye, *Des Causes actuelles de guerre en Europe et de l’arbitrage, par Émile de Laveleye* (C Muquardt 1873).
\end{enumerate}
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renewal of international law. Rules between states could not remain indifferent to the internal rise of a new political ethics. The congresses of the ‘friends of peace’ were an exciting venture, at the crossroads of renewals in several fields of human knowledge and practice. This enthusiasm explained a renewal of the idea, in Burritt’s words, that submitting states to the rule of law implied that they ‘accept[ed] the condition of individuals who are amenable to law’. This was unthinkable without the empowerment of political communities. Yet, ‘le public se moque volontiers de la douce folie de ces philanthropiques rêveurs de paix perpétuelle’. Lawyers, and not philanthropists would pave the way to the incipient international rule of law, thus ending a strategy of ‘law avoidance’ (Rechtsvermeidung) characteristic for the larger part of 19th century international relations.

The destructions of the Wars of Italian Independence (1849, 1859), the Crimean War (1854-1856) American Civil War (1861-1865), the Austro-Prussian conflict (1866), the Franco-Prussian war (1870-1871) bolstered the case of peace: ‘great powers of all stripes fell into an

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130 See also Francis Lieber, Manual of Political Ethics, Designed Chiefly for the Use of Colleges and Students at Law (C C Little and J Brown 1838).
131 Burritt (n 80) 171.
132 De Laveleye (n 129) 1.
134 Stephen C Neff, Justice in Blue and Gray : A Legal History of the Civil War (Harvard University Press 2010); Montague Bernard, A Historical Account of the Neutrality of Great Britain during the American Civil War (1870).
135 Geoffrey Wawro, The Austro-Prussian War : Austria’s War with Prussia and Italy in 1866 ([Reprinted], Cambridge Univ Press 1997).
intense competition’, causing hundreds of thousands of deaths and considerable material damage. ‘Maintenant on fait la guerre à fond’: industrialization and mechanization had bolstered the scale of destruction. Conflicts as the Crimean War were condemned as ‘sans motif et sans but bien défini, conduite sans vigueur et terminée sans prévoyance’. In 1867, the Genevan peace conference could boast to have assembled the written support of no less than twenty thousand people. With more than four thousand physical participants, the cause of peace seemed to have started off again, with the new Ligue de la paix et de la liberté. The Alabama-arbitration (1872) seemed to have set a technical standard. Networks of international lawyers replaced the heterogenous bubble of peace activists. This new transnational network offered opportunities to develop common practices and concepts, endorsed by states and permeating diplomatic practice.

Finally, we should not forget that the very same people who advocated peaceful relations between European states, eagerly served to justify colonial enterprises, or to safeguard them from domestic political criticism. Baron Edouard Descamps (1847-1933), one of the authors of the Statute of the Permanent Court of International Justice, pleaded for an evolution of perpetually neutral states to pacigerate, a status whereby a state has permanently renounced the use of force,

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139 De Laveleye (n 129) 252.
140 Charles Lemonnier, La vérité sur le Congrès de Genève (Vérésoff et Garrigues 1867).
141 Bois (n 4) 514.
and will serve as a herald of a peaceful world. This is also conformable to the wish uttered in the 23rd protocol at the Paris Peace Conference of 1856, to see neutral states act as natural mediators between quarrelling parties, to Ewart’s compliments on the neutral character of Belgian soil, rendering it the ideal meeting place, or to Burritt’s hopes that ‘some convenient town in Switzerland, or in some other central territory, which should be considered neutral ground, or free from any local influence which might affect its conclusion’. In reality, neutrality remained a fragile and precarious status, depending on the guarantors’ goodwill, and the ability of a country to defend oneself. Neutral states, finally, were not as disinterested as these utterances may sound, even in attracting international events and organizations.

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147 Burritt (n 80) 171.


150 Osterhammel and Camiller (n 11) 511.