

THE

INTERNATIONALISTS

HOW A RADICAL PLAN TO OUTLAW
WAR REMADE THE WORLD

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*For Ava and Owen
and
Liza and Drin*

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INTRODUCTION

Crowds gathered outside the Quai d’Orsay to watch the world leaders arrive. Onlookers stood wherever they could: on the sidewalk, on taxis, on trucks, on the parapets of the Seine. An extra squad of police mobilized just to remove the people who had climbed streetlamps to get a better view. Dignitaries and journalists pressed through the crowds and handed the ushers their invitations, yellow cards printed for that date, August 27, 1928, with the words: “*Signature du pacte générale renonciation à la guerre*”—“The Signing of the General Pact for the Renunciation of War.”¹

The ushers led the guests into the grand Salle de l’Horloge, the “Clock Room,” deep within the immense Foreign Ministry. Enormous chandeliers hung from the hall’s shining gold ceiling, and blood-red drapes sealed off the outside world. Four colorful cartouches, each depicting one of the “Four Continents,” were poised on the exquisitely carved moldings. The entire chamber appeared to have been designed to send one message: The Law of the World is made here.

And, indeed, for generations, it had been. In this lavishly appointed hall, the international community established a uniform system of mea-

surements for commerce and science in 1875.² The League of Nations, instituted to resolve disputes between states, first assembled here in 1920.³ And it was here, only a decade earlier, that the victorious nations dictated the terms of the peace to a defeated Germany.⁴

It was a balmy day outside but hellishly hot inside the Salle de l'Horloge. Blazing klieg lights set up to film the ceremony had turned the Clock Room into an oven, roasting the dignitaries in their formal attire. At precisely 3:01, the procession began. Swiss guards carrying medieval halberds led the emissaries into the room. Just as the guests rose, the shouting began. "Sit! Sit!" the cameramen barked in many different languages. The guests were blocking the shot. Stunned by the incivility of the photographers but obeying orders, they returned to their seats.

Aristide Briand, the French foreign minister, was the master of ceremonies. Briand did not look like a statesman. He was neither tall nor striking. A long drooping mustache obscured a good portion of his grizzled face, and he often seemed bored. Yet Briand was no jaded diplomat. He was an indefatigable defender of France who had spent the decade since Germany's defeat working to spare his country another bloody conflict. Just two years earlier, in 1926, he had won the Nobel Peace Prize for brokering the Locarno Treaties, an interlocking set of agreements designed to prevent the major European powers from waging war with each other. Now Briand, together with his American counterpart, Frank Kellogg, the U.S. secretary of state, aimed to spread the "Spirit of Locarno" to the entire globe.⁵

As Briand rose to speak, the camera crews switched off the bright klieg lamps and replaced them with a softer spotlight focused on Briand. He began by warmly acknowledging Kellogg on his left, and Gustav Stresemann, the German foreign minister, on his right. This day, he declared, "marks a new date in the history of mankind" and the end of "selfish and willful warfare." From this moment, the nations of the world will no longer treat war as a lawful means to resolve disputes. The treaty will attack "the evil at its very root" by depriving war of "its legitimacy."⁶ The room burst into applause. Tears ran down Kellogg's cheeks.

The klieg lights reignited. Blinded, Briand asked that they be switched

off, but the cameramen refused. Briand then turned and bowed to Stresemann, who rose and approached the treaty. His head and neck glistening with perspiration, Stresemann sat down at a small table on which the parchment document lay and lifted a foot-long gold fountain pen, a recent gift to Kellogg from the town of Le Havre. The pen was decorated with laurel wreaths and inscribed with the phrase: “*Si vis pacem, para pacem*”—“If you want peace, prepare for peace”—a play on the celebrated maxim usually attributed to the Roman military theorist Vegetius: “If you want peace, prepare for war.”⁷

Kellogg was next. Unable to get the unwieldy pen to work, he grimaced with irritation and gave it a vigorous shake.

After Kellogg, Paul Hymans, the Belgian minister of foreign affairs, signed the treaty for Belgium and Briand signed for France. The U.K.’s acting foreign secretary, Lord Cushendun, then signed for Great Britain and Northern Ireland. The plenipotentiaries of Canada, New Zealand, South Africa, Australia, the Irish Free State, India, Italy, Japan, Poland, and Czechoslovakia followed suit.⁸

The entire ceremony took less than an hour. At 3:57 p.m., a Swiss Guard banged his halberd on the floor, the cameras stopped rolling, and, for the first time in the history of the world, war was declared illegal.

You don’t have to be an expert in international relations to know that the agreement signed that day—the Paris Peace Pact—failed to end war. Three years after the grand pronouncement, Japan invaded China. Four years after that, Italy invaded Ethiopia. Four years later, Germany invaded Poland and then most of Europe. With the exception of Ireland, every one of the states that had gathered in Paris to renounce war was *at war*. And the ensuing catastrophe was far more destructive than the one that preceded it. The death toll of the Second World War was five times that of the First World War—an unimaginable seventy million people.⁹ It was the deadliest conflict in over a thousand years.¹⁰ Nor did the Pact stop the Korean War, the Arab-Israeli conflict, the Indo-Pakistani wars, the Vietnam War, the breakup of Yugoslavia, the genocide in Rwanda, the “war on terror,” or the current conflicts in Ukraine and Syria.

The Paris Peace Pact was, at the time, the most ratified treaty in history, having been joined by sixty-three nations.* Today, however, it is largely forgotten. Few people have heard of it. Most historians ignore it. Neither *The Penguin History of the World* nor Oxford's *The History of the World*, each over 1,200 pages, mentions it even once.¹¹ When the Peace Pact (known in the United States as the Kellogg-Briand Pact) is mentioned, it is usually to dismiss it as an embarrassing lapse in the serious business of international affairs, a naive experiment that should never be repeated. Former secretary of state Henry Kissinger mocked the effort to outlaw war as being "as irresistible as it was meaningless."¹² The Cold War strategist George Kennan described it as "childish, just childish."¹³ In his otherwise excellent book, *To Hell and Back*, the British historian Ian Kershaw described the Peace Pact as "singularly vacuous."¹⁴ The diplomat Kenneth Adelman judged it "a laughingstock," and James M. Lindsay, of the Council on Foreign Relations, called it "the international equivalent of an air kiss."¹⁵

Perhaps the most damning indictment of the Peace Pact was made by the Belgian filmmaker Henri Storck. In 1932, Storck took the footage of the signing of the Peace Pact and spliced it with scenes from newsreels from 1928: snippets of British dreadnoughts firing their enormous guns; German military officers parading in Pickelhauben, their iconic pointed helmets; and Benito Mussolini defiantly shaking his fist. The film had no narration, but its message was clear: the solemn ceremony in the Clock Room was pure political theater. The Great Powers had absolutely no intention of renouncing war; on the contrary, they were busily preparing for it. The French government was so stung by the satire that it censored the

*By 1934, the following countries had become parties to the Pact: Afghanistan, Albania, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Danzig, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Germany, Greece, Guatemala, Hayti, Hejaz, Honduras, Hungary, Iceland, India, Iraq, Irish Free State, Italy, Japan, Latvia, Liberia, Lithuania, Luxembourg, Mexico, The Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Persia, Peru, Poland, Portugal, Roumania, Siam, South Africa, Soviet Union, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States of America, Venezuela, and Yugoslavia. Barbados joined in 1971, Antilles and Aruba in 1986, Commonwealth of Dominica in 1988, and Bosnia and Herzegovina in 1994.

film before its release. It only debuted in 1959, by which time Storck had added marching music to underscore the farcical nature of the proceedings.¹⁶

The Peace Pact is not reviled like the Treaty of Versailles of 1919 or the Munich Agreement of 1938, both of which are often blamed for contributing to the Second World War. No one actually cares enough to blame or revile it. When we wrote an op-ed in *The New York Times* praising the Pact,¹⁷ the international relations scholar Daniel Drezner remarked, “This might be the first positive mention of the Kellogg-Briand pact in an op-ed that I’ve ever read. I don’t mean that in a snarky way, either—I’ve honestly never seen that treaty talked about favorably.”¹⁸

The argument of this book is that it should be. The Peace Pact quite plainly did not create world peace. Yet it was among the most transformative events of human history, one that has, ultimately, made our world far more peaceful. It did not end war between states, but it marked the beginning of the end—and, with it, the replacement of one international order with another.

The “beginning of the end of war between states”? The “creation of a new international order”? These are strong claims, and they understandably provoke skepticism. After all, even as we write these words, many parts of the world are embroiled in brutal, devastating conflicts. Syria is in the midst of the bloody civil war that has already claimed half a million lives. The Kurds are fighting Turkey for independence. Russia has seized Crimea and is currently supporting armed separatists in Eastern Ukraine. The Islamic State has spread from Iraq to Syria and now has control of significant territory in Libya as well. Nigeria is battling the terrorist group Boko Haram. The number of casualties from these conflicts is horrifying. In 2015, there were three armed conflicts—Syria, Iraq, Afghanistan—that had battle-related deaths greater than ten thousand. In Syria alone, the annual toll exceeded thirty thousand. An additional six conflicts, raging on three different continents, had at least one thousand fatalities: Nigeria, South Sudan, and Somalia (Africa); Pakistan and Yemen (Asia); and Ukraine (Europe).¹⁹

But the chief basis of skepticism about the Peace Pact is not simply

that it didn't work but that it *couldn't* work, that outlawing war is a fool's errand in a world of power politics. The idea that war could be ended by declaring it illegal has been routinely dismissed as preposterously naive. As Senator Henry Cabot Lodge put the point, "renouncing war by governmental fiat seems inherently absurd."²⁰ Peace-loving states do not need an agreement to keep them from going to war, and warmongers will not be stopped from pursuing their interests by a thin piece of paper.

Our book explains why this skeptical reaction, while reasonable, is wrong. Outlawing war only seems ridiculous to us because ours is a world in which war has already been outlawed. It is difficult to imagine war serving any legitimate function other than a defensive one. Today, war is regarded as a departure from civilized politics. But this has not always been so. Before 1928, every state accepted the opposite position. War wasn't a departure from civilized politics; it *was* civilized politics. Indeed, states could not imagine doing without it.

Those who signed the Pact sought to end war between states by renouncing war as an instrument of national policy. This renunciation was the beginning of a transformation, not the end. Much like the U.S. Declaration of Independence, the Pact was a decisive break with the past. It was also a promise of a new legal and political order—but one that was still unformed. Just as it took the Revolutionary War, the collapse of the first constitution of the United States (known as the Articles of Confederation), and the ratification of a second constitution in 1789 for the Declaration's promise to be realized, it would take two decades of struggle, including a world war, the collapse of the League of Nations, and the establishment of the United Nations for the promise of the Pact to become a reality.

And it *did* become reality. Drawing on an extensive body of statistical and historical research, we will show that the Pact succeeded in ways few appreciate—not immediately and not precisely as the assembled delegates might have hoped, but over time and in ways that have profoundly shaped the world we live in. Our evidence will reveal not just that the deadliest conflicts *have* become less common, but, more important, that the nature of conflict has changed fundamentally. The Pact was aimed at ending war *between states* and, in that, it proved remarkably successful. But it has certainly not ended all armed conflict. Paradoxically, by removing war from

states' legal toolkit and reinforcing their sovereignty, it even may have made some conflicts more difficult to resolve.

The Pact outlawed war. But it did more than that. By prohibiting states from using war to resolve disputes, it began a cascade of events that would give birth to the modern global order. As its effects reverberated across the globe, it reshaped the world map, catalyzed the human rights revolution, enabled the use of economic sanctions as a tool of law enforcement, and ignited the explosion in the number of international organizations that regulate so many aspects of our daily lives.

The Internationalists begins by recovering the now forgotten universe of pre-1928 that we call the “Old World Order”—the legal regime European states adopted in the seventeenth century and spent the next three centuries imposing on the rest of the globe. It formed the basis of what we now call “international law.” The rules that defined the Old World Order evolved informally, through a gradual process of improvisation and acculturation. That the rules developed by custom rather than by treaty does not mean, however, that they were any less binding. The rules of the Old World Order were understood to be obligatory, and sovereigns largely obeyed them.

The rules differed starkly from the ones that govern today. The Old World Order was defined first and foremost by the belief that war is a legitimate means of righting wrongs. The inhabitants of the Old World Order would have found the famous maxim from Carl von Clausewitz's *On War* to be incontrovertibly true: *War is simply the continuation of politics by other means.*²¹ Resorting to arms did not signal a failure in the system: It was how the system worked. War was an instrument of justice. *Might was Right.*

But it is not just that the Old World Order sanctioned war: It relied on and rewarded it. All states had the right of conquest: Any state that claimed it had been wronged by another state, and whose demands for reparations were ignored, could retaliate with force and capture territory as compensation. The conquering state thereby became the new sovereign of the captured territory: It owned all public property and possessed the legal authority to rule over its subjects. Nearly every border in the world today bears witness to some such past battle—including that of the United

States. Arizona, California, Nevada, Utah, and parts of Colorado, New Mexico, and Wyoming, are no longer part of Mexico because the United States launched a war in 1846 over unpaid debts.

Not only did states have the legal right to wage war to redress wrongs, they could also *threaten* to wage war for the same purpose. When Japan refused to trade with the United States in the nineteenth century, violating its obligation to participate in global commerce, the United States sent Commodore Matthew Perry with a fleet of gunboats to offer a “treaty of friendship.” He left no doubt that the alternative to friendship was war.

The Old World Order also granted immunities to those who waged war—in effect, authorizing mass homicide. If an ordinary person killed another outside of war, it was a murderous crime. If an army killed thousands during a war, it was not only lawful but glorious. To wage war was to be *necessarily* immune from criminal prosecution.

While waging war was legal, economic sanctions by neutrals against belligerents were prohibited. A state that favored one side over another in an ongoing war could be punished, even if it never fired a shot. Thus, if a neutral state traded with a belligerent but refused to trade with its opponent (or traded, but on less favorable terms), it violated its duty of neutrality and could be attacked in retaliation. Had the United States traded with Great Britain but refused to trade with Germany when the First World War began, it would have violated its duty of neutrality and Germany would have been entitled to strike. It was for this reason that President Woodrow Wilson, who ran for reelection in 1916 on the slogan “He Kept Us Out of War,” called on Americans to remain “impartial in thought as well as in action.”

The Peace Pact was naive—but not for the reason most think. Outlawing war did work. If anything, it worked too well. The problem with the Peace Pact was that it was purely destructive. By outlawing war, states renounced the principal means they had for resolving their disputes. They demolished the existing system, which had allowed states to right wrongs with force, but they failed to replace it with a new system. This was in part because there already was an institution—the League of Nations—that seemed poised to resolve disputes. But the League was built on Old

World Order principles. It, too, relied on war and the threat of war to right wrongs and enforce the rules. In a world in which war was outlawed, however, the League's enforcement mechanism was grounded in a power that states were reluctant to wield.

Thus, when the Japanese invaded Manchuria in 1931, the League was paralyzed. After all, nearly all its members had just renounced war. The *prohibition* on war certainly could not be enforced *with war*. But if not war, then what? Economic sanctions had been illegal under the Old World Order; only war was legal. Now that war was illegal, maybe sanctions could take its place as a legal tool for punishing states? As the world hurtled toward disaster in the 1930s, philosophers, lawyers, and statesmen struggled to answer these questions, to figure out what would fill the vacuum left by the outlawry of war. Their failure to achieve consensus as to how to respond to illegal behavior—if not with war—created chaos and paralysis, thwarting the possibility of a coordinated, and thus effective, response to the growing Axis threat.

It was not until the Second World War ended that a complete world order premised on the outlawry of war—what we call the “New World Order”—finally came into view. That New World Order, the one in which we now live, is a photo negative of the old one. The Old World Order had rules governing conquest, criminal liability, gunboat diplomacy, and neutrality. The New World Order has rules for all these, too, except they are precisely the opposite. In the New World Order, aggressive wars are illegal. And because aggressive wars are illegal, states no longer have the right to conquer other states; waging an aggressive war is a grave crime; gunboat diplomacy is no longer legitimate; and economic sanctions are not only legal, but the standard way in which international law is enforced.

The New World Order is not simply the law. States actually obey it. There have been breaches, of course—for example Russian president Vladimir Putin's brazen annexation of the Crimea in 2014. But the disparity between the world before and after the Peace Pact is extraordinary. Russia's seizure of Crimea is the first significant territorial seizure of its kind in decades. Indeed, we will show that in the century before 1928, states seized territory equal to eleven Crimeas a year on average. The likelihood that a

state will suffer a conquest has fallen from *once in a lifetime to once or twice a millennium*.

Our data do not merely show that the international order changed dramatically after the Second World War. Coupled with the historical evidence, they enable us to draw an even more startling conclusion: The transformation in the way that states relate to one another began earlier, in 1928, set in motion by the Pact. Of course, the Pact was not the *only* factor responsible for this transformation. The Pact repealed the core principle of the Old World Order, but it did not replace it with a new set of institutions. It would therefore take more than the Pact alone to successfully transform the legal order and change state behavior. But the Pact's outlawry of war was a crucial—and overlooked—trigger. It sparked a series of events that would lead to the construction of a new global order.

The prohibition on war has affected when and how often states go to war, but it has also changed how they relate to each other in times of peace. In the New World Order, the only legitimate way for one sovereign state to get another sovereign state to do what it wants is by offering to cooperate in ways that benefit both. The end of war as a legal mechanism for resolving disputes has thus resulted in the rise of unprecedented trade cooperation and has helped propel the creation of thousands of international agreements on everything from coffee growing to tax collection to criminal law. The latest edition of the United Nations Treaty Series includes hundreds of thousands of international agreements filling over 2,800 volumes. Through these agreements, even the smallest states can gain access to nearly every other state in the world using cooperation rather than war.

There is much to celebrate about the New World Order and the decline in interstate war it helped precipitate. But the switch from the Old World Order to the New has had unexpected consequences, not all of them positive. In the Old World Order, where war was legal, a sovereign nation that did not have well-functioning state institutions was at risk of losing territory to a sovereign nation that did. In the New World Order, military aggression is illegal, allowing even weak states to survive. But a world in which weak states can survive is also a world in which weak states can become failed states. Failed states all too often collapse into civil war

and humanitarian catastrophe, and they serve as breeding grounds for insurgencies and terrorism. The decline of interstate war and territorial aggression precipitated by the New World Order has thus led to a corresponding increase in failed states and intrastate war. That, too, is the result of changes set in motion by the Peace Pact of 1928.

Historians and international relation theorists have traditionally referred to the modern international order as the “Westphalian order.” It is named after Westphalia, the northwestern region of Germany in which two peace treaties were signed concluding the Thirty Years War (1618–1648), the bloodiest of the European religious wars, which, by most estimates, killed a third of the German population.²² According to these scholars, the Westphalian peace treaties instituted the modern order of sovereign states. In this system, states are authorized to treat their citizens as they see fit. They are sovereign within their geographic territory, answering to no external power.²³

This book does not begin in 1648 with the treaties of Westphalia but rather forty years earlier with the work of the Dutch lawyer and philosopher Hugo Grotius (1583–1645). We start here for two reasons. First, as scholars now acknowledge, the treaties of Westphalia had little to do with the international system. Their aim was not to impose the principle of sovereignty on the states of Europe. Their focus was local—to reorder the internal constitution of the Holy Roman Empire and thus end the religious and political conflict between Catholics and Protestants in Germany.²⁴

Second, we begin with Grotius because he is generally considered to be the “Father of International Law.” Even more important (and less well understood), he is the preeminent philosopher of war. One of the main arguments of this book is that the defining feature of an international system is how it regulates armed conflict. Grotius was the most creative and articulate exponent of the idea that states are permitted to wage war against each other in order to enforce their legal rights. He was, in other words, a seminal theorist of the Old World Order.

Once we look at the international system through the lens of war, we will see that the system has fundamentally changed. States are no longer permitted to enforce their legal rights through the resort to arms whenever

they feel aggrieved. We locate the source of this transformation in 1928—with the signing of the Paris Peace Pact. Beginning then, we aim to show that there has been a tectonic shift—a transformation from what we have called the Old World Order to the New World Order.

Grotius did not invent the Old World Order. Though he was enormously influential, he was describing practices and systematizing ideas that had been present in Western culture and politics for centuries. But he was, and is, the most articulate exponent of the logic of the Old World Order, and for that reason we use his trenchant, if to modern eyes often troubling, defense as the entryway into its brutal rationale. The Old World Order came fully into its own over the course of the seventeenth century as Grotius was writing about it. And, if we are right, it came to an end on August 27, 1928.

Though we examine a rich trove of data and describe sometimes unfamiliar events, this book is, at its core, a work of intellectual history. It charts the long attempt to address perhaps the most important question about war: When is it legitimate? When is one group of human beings allowed to kill members of another group of human beings?

In tracing how leaders and thinkers have grappled with these questions, we focus on what we believe are key moments in the last several centuries when their answers have changed. We track these changes through the work and lives of two groups of men (they were almost all men). The first we call the “Interventionists.” The Interventionists argued that war was a legitimate method for enforcing rights in the absence of a world government. They were led by Grotius, who saw the Old World Order as a system and constructed an intellectual foundation for a legal order built on war. Nishi Amane (1829–1897) followed Grotius’s lead, seeking to understand the Western system of international law and bringing the Grotian vision to Japan, where he transformed a once isolated nation into a mirror image of the Western imperial powers. Carl Schmitt (1888–1985) anticipated the transformation that would result from the outlawry of war, and in his role as one of the most powerful legal minds of the Third Reich did all he could to prevent it. Sayyid Qutb (1906–1966), an Egyptian Interventionist disenchanted with the excesses of the West and the increasing secularism of his

country, politicized radical Islamic thought, setting a course toward what is today the Islamic State.

The second group, which we call the “Internationalists,” maintained that war was a barbaric way to resolve disputes and that the best way to resolve controversies was through international institutions. The Internationalists were led by Salmon O. Levinson (1865–1941) and James T. Shotwell (1874–1965), rivals who nonetheless shared a vision of a world in which war was outlawed. Levinson organized a social movement behind that vision, and he and Shotwell, in different ways and with different emphases, persuaded the U.S. government to make that idea a reality. Sumner Welles (1892–1961), a rigid, lonely State Department bureaucrat, was forced to resign after news spread that he had propositioned a male railway worker, but not before he succeeded in creating the Internationalist framework for what would become the United Nations. Hersch Lauterpacht (1897–1960), a Jew whose family was murdered in the Holocaust, would become for the Internationalists what Grotius was for the Interventionists. He recognized that the rules of the international system were shifting and put them together to form a new world order based on the illegitimacy, rather than legitimacy, of war. These historically and geographically disparate men did not invent their ideas about war *ex nihilo*. Each in his own way built on the work of those who came before him. But each one introduced remarkable innovations that transformed world history.

A key theme of this book, then, is that *ideas matter*, and people with ideas matter. In that respect, the book is both a history of ideas about war and a history of how these ideas found their way into practice. It is a story of how ideas emerged, clashed, and evolved. It is a story, too, of how ideas became embedded in institutions that restructured human relations, and in the process reshaped the world.

Finally, this book is an effort to reflect on our own generation’s place in this still unfolding tale. It is now easy to take the Peace Pact’s historic achievements for granted. War has been outlawed for nearly a century, and the result has been a period of unprecedented peace and cooperation between states. But we can’t assume that this peace and cooperation will remain. The rules have changed before, and if we forget the lessons of the past, they could change again.

The Old World Order—the world in which war was a permissible way to address wrongs—was bloody, brutal, and unjust. Millions fought and died before it was defeated. This book asks readers to take a hard look at the world that Aristide Briand, Frank Kellogg, and the others who gathered in that sweltering Paris room in 1928 brought to an end. It also asks them to think about the world that the Pact painfully but successfully brought into existence—and how we can preserve and improve it for future generations.