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THE WAR AGAINST WAR

What can we learn from the 1928 Paris Peace Pact?

by **STEPHEN WERTHEIM**

In June 2016, shortly after Donald Trump secured the Republican nomination for president, Barack Obama's ambassador to the United Nations flew to Berlin to make a speech. Like her boss, Samantha Power was more than just a political figure; she was the closest thing the foreign-policy world had to an

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icon. In the 1990s, Power had made her name urging US leaders to abandon the narrow pursuit of national self-interest and instead lead a crusade to rid the world of genocide. Through her advocacy and her best-selling, Pulitzer Prize-winning book, *"A Problem From Hell,"* she perhaps did more than anyone else to define a new generation of liberal internationalists— theorists and policy-makers who sought to imbue American power with a renewed sense of moral purpose after the Cold War. Now, with candidate Trump

The Internationalists

How a Radical Plan to Outlaw War Remade the World

By Oona A. Hathaway and Scott J. Shapiro

Simon & Schuster. 608 pp. \$30

denouncing "the false song of globalism," one might have expected her to mount a rousing response.

Yet Power delivered something else: a rearguard defense of traditional diplomacy. Where she had once castigated US

presidents for failing to stop genocide “again and again” after 1945, she now extolled the “assumptions that have undergirded US foreign policy across party lines since the Second World War.” The Western alliance that had tolerated mass killing became the “indispensable transatlantic partnership.” Power’s vision had evolved; so had her idiom. She outlined an “increasingly complex agenda.” She paid homage to “the inevitable trade-offs.” With the diplomat-speak out of the way, a beaming Power then fulfilled the purpose of the Berlin affair: She accepted the Henry A. Kissinger Prize, posing with Kissinger himself.

Power’s personal odyssey—or hypocrisy, depending on one’s view—offers a stark if familiar example of how idealists often accommodate themselves to power. More important, it illustrates where liberal foreign policy stands today. The brand of internationalism that brought Power to prominence—along with others like Michael Ignatieff, her former Harvard colleague, and Susan Rice, her ally in the Obama administration—is in crisis. Even before Trump appeared on the stage, it was dissolving into something like its opposite: an amoral politics of power. Having placed their faith in righteous military intervention and then witnessed the devastation in Afghanistan, Iraq, and Libya, liberals have become pragmatic executors of the status quo. “Don’t do stupid shit,” as Obama summed up his non-doctrine. As a result, internationalists today face a genuine quandary, which cannot be solved simply by opposing Trump. They require a new vision of global engagement, one that not only counters right-wing nationalism but improves on what came before.

A new book has come along to suggest an answer. This manifesto, fittingly titled *The Internationalists: How a Radical Plan to Outlaw War Remade the World*, attempts to recast liberal internationalism as a project of ending wars, not starting them. Written by Oona Hathaway and Scott Shapiro, two professors at Yale Law School, the book has attracted notice for its eye-catching claim that the scarcely remembered and amply ridiculed Paris Peace Pact of 1928—also known as the Kellogg-Briand Pact, after its two main architects, US Secretary of State Frank Kellogg and French Foreign Minister Aristide Briand—sparked a revolution in world history. The pact, the book argues, put a near-total end to wars of conquest by declaring war itself to be illegal. For Hathaway and Shapiro, its history also implies a path forward. Rather than endorse hu-

manitarian interventions that threaten state sovereignty, they suggest a more modest agenda for liberal foreign policy: Buttress the international system as it stands. Better to uphold the existing norms against war than to launch semi-conquests of our own. Yet like the liberal interventionists they seek to supersede, the authors continue to overrate American power as the guarantor of global norms. Their reclamation of past internationalists turns out to be suspiciously nationalist. In the name of recovering lost alternatives, they divert us from more potent replacements—then and now.

Hathaway and Shapiro open with a question of enduring importance. For centuries, wars of conquest were the way of the world. The powers of the West seized land from the rest, placing the majority of humanity under a colonial yoke. They even made a habit of invading and conquering the territories of their fellow Western nations. All of this was perfectly legitimate, at least according to the finest legal minds of the time. Rather than seeking to end wars of conquest, jurists like Hugo Grotius judged them to be sound methods of diplomatic conduct. What’s more, when states went to war, international law required third parties to stay neutral; the international community was prohibited from punishing aggressors or aiding their victims. The effect was to quarantine wars in time and space, but at the price of accepting whatever wars were fought.

If this logic sounds strange, that’s because the international order changed in the 20th century. Today, we regard war as anomalous and turn to law in order to stop it. Stopping war has become the business of the world, even at the risk of inflating small, regional wars into unlimited and global ones. Although violence plainly persists, Hathaway and Shapiro are encouraged by the results. Focusing on wars of conquest, they assemble data sets that purport to show how these conflicts have plummeted in frequency. After occurring an average of every 10 months from 1816 to 1928, the pair claim, wars of conquest have slackened in the past seven decades to an average rate of one every four years.

Hathaway and Shapiro argue that we owe the demise of wars of conquest to a small circle of internationalists who bent the self-interest of the great powers toward peace. The pivotal year was 1928, when, at the urging of transatlantic jurists, the United States and France devised a treaty

that renounced the use of force between them and then opened their agreement to all comers. Soon, almost every state had joined the Paris Peace Pact, agreeing not to wage war against anyone else. In effect, the international community lined up behind the pact’s goal, what it called the “frank renunciation of war as an instrument of national policy.” In Hathaway and Shapiro’s view, this was an epochal achievement, ranking among “the most transformative events of human history, one that has, ultimately, made our world far more peaceful.”

Most scholars have thought otherwise, when they’ve bothered to think about the pact at all. For them, it remains notorious as an exercise in empty moralism—an “international kiss,” Missouri Senator James Reed jeered—because it contained no provisions for its enforcement. Yet Hathaway and Shapiro see this omission as a virtue. As they argue in an incisive chapter, the pact won over states with divergent agendas because it consisted of pure legal principle and fudged the whole question of force.

The result, however, was an agreement built on contradictory visions. One of the pact’s architects, James Shotwell, a Columbia University historian and transatlantic networker, favored a scheme of enforceable sanctions like that of the League of Nations. Because the United States had never joined the league due to stiff opposition in the Senate, the pact was Shotwell’s fallback option, and he hoped that a sanctions regime would follow. Others, meanwhile, valued the pact for just the opposite reason. Salmon Levinson, a corporate lawyer in Chicago, believed that law could bring peace by molding people’s minds and habits. Armed force—deployed, necessarily, by the powerful—would only stifle this process, so Levinson opposed the league and Shotwell’s other plans for coercive sanctions, deriding one such scheme as using the “soft glove” of outlawing war to “conceal its iron hand of world control by force.”

Despite these opposing views, the pact appeased both sides of the Senate and sailed through the chamber, 85 to 1. Born from competing values, it was nevertheless the first international instrument to declare war illegal. In this respect, the pact went further than the League of Nations, which required states only to attempt to settle disputes through certain processes, from which they might emerge free to wage war legally. Only the pact, Hathaway and Shapiro insist, declared war itself illegal and forced the rest of international law and politics to catch up.

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In so arguing, Hathaway and Shapiro challenge the “realists” gathered in schools of international relations, such as the influential Stephen Walt at Harvard University, who insist that states follow the iron dictates of self-interest rather than the gentle pressure of norms. For Walt, the crucial test of *The Internationalists*’ argument would be whether national leaders, after the 1928 pact, contemplated launching wars of conquest but decided not to out of fealty to the law. Because the book doesn’t offer such evidence, Walt and other realists are likely to remain unmoved. But Hathaway and Shapiro retort that law operates more subtly than these realists think: It shapes how states define their self-interest to begin with, rather than acting as a separate and opposing force. In a world that no longer recognizes wars of conquest as legal or acceptable, most states will not want to undertake them. International law can work, they argue, and without an army to back it up.

Perhaps so. Other scholars have argued, similarly, that law changes politics by channeling interests in new directions. But what Hathaway and Shapiro add is that *this* law, the Paris Peace Pact, changed world politics dramatically. Here they struggle, starting with the outcome they seek to explain. Even if the pair were correct to credit the pact with halting wars of conquest, they neglect that its original intention was grander. The pact did not specifically target “conquest,” a term that appears nowhere in its text. Instead, it outlawed “war,” full stop—including wars undertaken for any aggressive purpose, not just land hunger. Looking to tell a tale of progress, Hathaway and Shapiro move the goalposts from *all* wars to those of conquest, thereby sidelining the many wars fought for non-territorial aims, whether strategic, economic, ideological, or biopolitical. Only in this way can they turn the pact, and the world we have today, into a putative triumph.

Nor does the pact deserve the importance that Hathaway and Shapiro impute to it. Eager to rescue it from oblivion, they show how seriously many contemporaries continued to take it for the two decades after 1928. But they fail to show that the pact was central or even necessary to the transformation of the laws of war, a process that historians date to the entire period

spanning the two world wars and attribute to a variety of sources.

World War I began, for example, with President Woodrow Wilson proclaiming strict neutrality. It ended with the United States joining the “war to end all wars,” the Allies pledging not to annex new territory, and the liberal states creating the League of Nations to prohibit and punish future war-making, even if some loopholes remained. At the level of legal norms, never mind diplomatic practice, the league marked a vaster change than did the Paris Peace Pact. The laws of war and conquest traveled a far greater distance from 1914 to 1919 than from 1928 to 1933, when Japan completed its conquest of Manchuria and Adolf Hitler took power in Germany.



Indeed, Hathaway and Shapiro have to explain why a treaty signed in 1928 caused wars of conquest to begin to slow only two decades later—after the Axis powers had invaded far and wide and the Red Army had planted itself in Eastern Europe. They claim that the pact, given its momentous nature, took time to win genuine acceptance, and also that it led to the creation of the United Nations, which helped to end wars of conquest after the dust of World War II had settled. But this long chain of causal links—leaving aside for the moment whether they actually connect—undercuts the authors’ effort to single out the pact itself and the idealistic jurists who shaped it.

In fact, when one looks at the history of this period, something like the opposite story makes as much sense. By outlawing war, one might argue, the great powers sought to freeze the territorial gains they had already made. This attempt, in turn, spurred their competitors to grab everything they could. As historians like Adam Tooze have shown, the Axis powers feared that, if they did not gamble on rapid conquest, they would drop forever to the second tier, below the internationalist poseurs who had already seized Africa, Asia, and North America and now pronounced their consciences shocked when others followed suit. If the pact had any direct effect, then, it was this: to spur Germany, Japan, and Italy to grab imperial hinterlands of their own before it was too late.

The Allies prevailed in the end, of course. Yet their victory did not eliminate the haz-

ards of “outlawing” war. Now that making war is theoretically forbidden, many war-makers claim to be doing something else—engaging in self-defense, or policing the commons, or taking military measures that stop just short of war. In the United States, for example, Congress has not formally declared war since 1942. Yet American presidents still order troops into battle while the public and its representatives cheer, carp, and, above all, watch.

Outlawing war has also given powerful states a paradoxical new rationale for waging war: enforcing international law. This danger was detected at the time by Carl Schmitt, the right-wing jurist and Nazi who submitted liberal internationalism to relentless criticism in the 1920s and ’30s. Where liberals hoped to subordinate states to rules and war to peace, Schmitt retorted that the devices needed to do this would inevitably be wielded as weapons by the powerful. The Paris Peace Pact, he argued, “does not outlaw war, but sanctions it,” because the signatories put forward a raft of exceptions (on grounds like self-defense and vital interest) that would allow them to wage war when they wanted and yet attack their enemies for violating this solemn pledge. Frank Kellogg went so far as to exempt any action that the United States took under the Monroe Doctrine, through which it claimed the right to police the Western Hemisphere.

One of the original “realists,” Schmitt is the *bête noir* of *The Internationalists*, and Hathaway and Shapiro assail not only his ideas but his personal actions, recounting his well-known machinations at the University of Berlin, where he defended the legality of the Nazis’ extrajudicial assassinations, and his interrogation at Nuremberg, where he escaped prosecution but not disgrace. Yet the authors try to have it both ways in their quarrel with Schmitt. At times, they acknowledge the validity of his claim that outlawing war will merely redirect violence rather than reduce it. “The outlawry of war has not brought world peace,” they concede toward the end. “By opting for outlawry, we have traded a world of *interstate* war for one of *intrastate* war,” where weak states no longer get conquered even if they cannot maintain internal order. But for the most part, Hathaway and Shapiro claim to reject Schmitt wholesale and applaud the pact for getting rid of actual war. “Compulsion by war was over,” they enthuse. “The era of global cooperation had begun.” Confusing norms with practices, Hathaway and Shapiro celebrate

an achievement they elsewhere recognize exists in name only. Their account, in this way, is not so much nuanced as schizophrenic.

Perhaps for this reason, Hathaway and Shapiro can't settle on their reasons for optimism about today's world. When they want to make a case they can demonstrate, they home in on wars of conquest, which have indisputably declined. Yet this is too slender a stake to support their grand pronouncements about the forward march of world order. So to make their case sufficiently significant, they make declarations about war in general, even though they struggle to show, and at times decline to argue, that warfare as such has abated. This switching of standards not only makes for jarring reading; it also forces Hathaway and Shapiro to minimize the continued existence of war—the very thing their vaunted internationalists sought to banish from the earth.

Why do Hathaway and Shapiro neglect the persistence of war in a book about its outlawing? One reason is that to confront wars of all kinds would require them to address the ills, and not just the blessings, of American power. This is something they are unwilling to do. Like the humanitarian interventionists they hope to displace, Hathaway and Shapiro appear to take US global military supremacy as the prerequisite for a peaceful world, not as a significant source of proliferating arms and armed conflict.

For all they hype the 1928 pact, the authors hinge their narrative on World War II, after which wars of conquest slowed. They go to great lengths to argue that the pact inspired the United Nations: American leaders, they claim, took the outlawing of war in 1928 and, in a straight line, added “teeth” to it in 1945. Shotwell supplies the central link for this argument, since, after promoting the pact, he went on to help design the United Nations Charter in the wartime State Department. Yet Shotwell, as discussed earlier, had always valued the pact as a fallback plan that would eventually include a scheme of enforceable sanctions. The pacifist Levinson, who also shaped the pact, supported it for the opposite reason: He hoped that it would never provide a warrant for any big power to wage war. Having shown as much in their lone chapter on the pact's formation, Hathaway and Shapiro spend the rest of the book forgetting this insight by enthroning Shotwell as the pact's heir and making Levinson virtually disappear. They neglect to observe that Levinson's pacifist strain of internationalism lost

out as the United States not only created a new world organization but also decided to install itself as the supreme military power and enforcer of “world order.” Insofar as Shotwell's vision was realized, Levinson's was betrayed.

Yet even Shotwell's vision had a more limited influence on the postwar order than Hathaway and Shapiro claim for it. They are right to point out that the UN Charter, like the Paris Peace Pact, prohibited the use of force but without mandating any punishment against violators. Yet the charter also set up a Security Council that authorized the great powers to use force however they collectively liked. To American officials at the time, this was precisely the attraction of the UN: It could serve as a vehicle for the United States, in concert with its allies, to project power on a global scale. “Only force will make and keep a good peace,” as one postwar planner, Isaiah Bowman, declared in 1940. In an almost overt realization of Schmitt's prognosis, the United States nominally outlawed war while claiming the right to police the “peace.”

For this reason, when they formulated the UN Charter, American planners drew inspiration less from the Paris Peace Pact than from the League of Nations, the British empire, and the Allied councils of World War I, all models they associated with military force. Shotwell was no exception here: In his early draft of the charter, penned in 1942, he provided only for a great-power directorate, without a general assembly of the member nations. Hathaway and Shapiro brandish Shotwell's draft as if it were a smoking gun. “As far as we are aware,” they exclaim, “no one has previously made the connection between Shotwell and the first draft of the United Nations Charter.” In fact, two major historians of the subject, Andrew Johnstone and Christopher O'Sullivan, have noted Shotwell's authorship of the charter's early draft, without finding cause for excitement in the role of the Paris Peace Pact, since Shotwell appealed to multiple models and had always preferred enforceable sanctions to the pact's pacifism.

Proceeding from the unusual vantage point of 1928, Hathaway and Shapiro should be perfectly positioned to show how the goal of transcending power politics had turned, by 1945, into something else: the American

domination of power politics. Astonishingly, however, they end up eliding the difference. Urging the United States to return to its original formula for world leadership, they effectively replicate the conceit that ending war requires the armed preeminence of the United States. Instead of making this contradiction visible, they obscure it. *The Internationalists* becomes *The Supremacists*; the anti-war pact in effect cleanses America's military primacy. As a consequence, Hathaway and Shapiro commit what the legal historian Samuel Moyn has called the “cardinal error” of liberal internationalism; namely, an “over-identification with American interests and power, betraying liberalism and internationalism alike.”

This error grows stark as the authors turn, at the end of their book, to recent events. They blame Russia and the Islamic State (ISIS) for threatening to plunge the world into the dark days of rampant conquest. They are not wrong, but their field of vision is incomplete. America's invasion of Iraq receives one brief discussion in the book, and when it does appear, Hathaway and Shapiro mention it not to exemplify a norm-shattering illegal war, but to dramatize the happy story that the George W. Bush administration, despite its unilateralist outlook, later felt compelled

to reverse its steel tariff in deference to World Trade Organization rules. They also all but ignore the now 17-year-old war in Afghanistan and the US-backed violence in Yemen and beyond. They mention “drone” once, in describing the prosecution's tedious opening statement at the Nuremberg trials. For Hathaway and Shapiro, and for many other so-called liberal internationalists, the United States doesn't really count as a war-maker and lawbreaker. America upholds and enforces peace and law—never mind when it doesn't.

Back when Samantha Power wanted to stop genocide, she wrote out of a sense of outrage at the state of the world and a faith that the United States could make things better. Hathaway and Shapiro compellingly criticize her style of humanitarian intervention, noting that it erodes the norms that prohibit conquest. “If the United States insists on the right to resort to war in violation of the Charter to



address emergencies,” they warn, “it cannot stop others from arrogating to themselves the same powers—and that, in turn, threatens the entire system, which requires states to abide by the prohibition on war.” On this count, Hathaway and Shapiro’s liberal internationalism improves on Power’s, by taking a structural view absent from humanitarian

interventionists.

Yet the “entire system” that Hathaway and Shapiro seek to defend has bequeathed profound problems, too. As they explain at the end of *The Internationalists*, they intend their manifesto as a defense of the international system as it has existed for nearly a century. “The international institutions that

have grown up since 1928, while imperfect, have brought seven decades of unprecedented prosperity and peace,” they conclude. Power, at least in her earlier incarnation, summoned her fellow citizens to improve a violent and unjust world. Hathaway and Shapiro risk throwing that goal away. They write to preserve what has come before, not to change it.

This explains why their book has resonated with so many liberals in the Trump years. Since the presidential election, US foreign-policy experts have banded together to guard what they have called the “liberal international order,” which they seem to think was uniformly upheld by postwar presidents before Trump and that Trump wholly rejects. Hathaway and Shapiro share this protective project, even if they distinctively backdate its inception to 1928. Reviewers have so far approved. “Given the state of the world,” writes the Oxford historian Margaret MacMillan, “*The Internationalists* has come along at the right moment.” Isabel Hull, the great historian of imperial Germany, likewise commends its “timely and necessary plea for international law and for the value of institutions from which we all have benefited, but which we have in recent decades neglected to explain or defend.” So desperate is Hull to preserve the old order that she absolves Hathaway and Shapiro of the very myopia—an unquestioning faith in America’s supreme role in the world—that threatens it today. “They may be forgiven,” she allows, “for exaggerating the role of the US in outlawing war and in fashioning the institutions that sustain the hope of international co-operation.”

Perhaps Hull has it backward. The present moment should invite us not to suspend our criticism of past US foreign policy, but to sharpen it. Somewhere in this history lie the sources of the militarism and the national and racial chauvinism that Trump has paraded before humanity. One source is World War II and the same internationalists who were romanticized a decade ago as the antithesis of George W. Bush and, now, Donald Trump. Putting America first, those internationalists decided that the United States must maintain an armed supremacy over the rest of the world in order for the world to stay at peace. In this respect, Trump is also their heir and resembles some of his most prominent critics. The internationalists of the last century are, it turns out, quite relevant to our current crisis: They helped us get here, and they offer us no way out. ■

Self-Portrait as a Shadow

for V. Lamar

Word is I wasn’t born so much as skimmed off another living thing by a source of light. Let’s just say that you are light-skinned and the back of my mom’s hand is a color best worn around the eyes after a knuckle’s kiss, though this fact itself is not here to imply I was born of an act of violence, but, rather, that I was born into violence as a cultural practice and product. And I enter post-crack, post-Reagan, when the big city newspapers sell themselves with headlines about shadow-on-shadow crime like light doesn’t factor into the equation by definition, like light doesn’t have a gaze upon the world called *the day*. Fact of the matter is—

sad as the matter is,

I can only see myself in relation to it, to the light; I can only move in reaction to movement, my ankles shackled to dogma that dogs me and us out from the moment of first appearance. In my case, that’s June 1990. Summer. Maternity ward full of shadows and from then on I can only measure love by the amount of nightmares I have in a shortened span of space and simultaneity. They all always say I look like my daddy, which is to frame me a shadow in a related sense, which is to say your presence gives my own life definition, which is what they like to say on TV whenever some kid like me is extinguished too soon. Under the lights, I make due with all of this being watched and watched over and I make questions of it, too. And I ask. And you answer: not always well, often incompletely but completely honest at the same time, and that is how the concept of faith clicks for me, how I learn to perturb politics and push myself into conversations like the connotation of a word or phrase, which, too, is a form of shadow, thus a part of me, who upon a lot of light shines that I take advantage of, take care that whenever they flick the switch to turn them on—themselves, on—that they’ll be sure to see me trailing tightly behind, keeping them on their toes like they’ve kept me on mine, like you always told me they would.

CORTNEY LAMAR CHARLESTON