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Transnational Dimensions

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Abstract
This chapter moves beyond the traditions of writing specifically national histories by refusing to use the borders of the nation-state (both cultural and legal) as the necessary frame of reference. It proposes that the historian needs to be attentive to the precise dimensions of the topic, refusing to let predetermined geographic boundaries dictate the shape of their enquiry. The chapter offers a number of case studies to this effect, using Sven Beckert’s fourfold categorisation of objects, peoples, ideas and texts to generate a sequence of interlocking inquiries. Aisling Macquarrie explores the intricate trans-Atlantic nature of the North West Company’s activities, suggesting how objects as ephemeral as hats might generate a wide range of cultural and economic connections. Momir Samardžić and Darina Martykánová concentrate their study on transport itself, highlighting how the development of the 19th-century rail network produced transnational communities of specialists and labourers, just as the track connected different national spaces. Marianna Christopoulos offers up a close rendering of one figure – the Greek diplomat John Gennadius – exploring how transnational contexts might shape an individual mentalité and germinate an idea of international arbitration. Hanne Hagtvedt Vik concludes by studying the origins of the Universal Declaration of Human Rights, showing how texts have multiple origins. In sum, the chapter explores the tension between universal ideals and particular experience and contests the resolution of that tension within the nation-state model which is at once particular to a community and simultaneously endlessly exportable. It proposes that there are other modes of experience to explore, and highlights the need for historians to attend to frames of reference that go beyond the nation-state. In doing so, it provides one mechanism for understanding the transnational dimensions embodied in the institutions of the European Union.

In thinking about the different levels where individuals interact with institutions and in which citizenship is forged, there is a strong tendency among historians to focus upon the commanding presence of the nation-state. The prevalence of the presumption that
the state should reflect – in a binary fashion – the national identity of the community it
governs has itself a historical origin, albeit a heavily contested one. In this we share our
colleagues’ presumption concerning the emergence of a world of communities which
had a unifying tendency encapsulated in the nation-state which culminated in the age
of nationhood, lasting from the French Revolution until the Russian Revolution, and
which may be on the brink of significant revival. Just as the recent re-emergence of
national identity and state-building projects both in the wake of decolonisation and
the collapse of communism has had as its counterpoint economic and political trends
towards internationalism and globalisation, so too a new agenda in historical scholar-
ship has emerged which emphasises institutions that facilitate interaction across state
borders, be they of commerce, communication, or of government.

A conversation hosted by the “American Historical Review” in 2006 considered this
transnational dimension in historiography. Therein, Wendy Kozol helpfully identified
the central question with which transnational history struggles, namely “what consti-
tutes the object of historical inquiry once you challenge the stability of the border to
define a nation?” Sven Beckert responded by suggesting that transnational history
writing take its place alongside global history, world history and international history
as “a project to reconstruct aspects of the human past that transcend any one nation-
state, empire or other politically defined territory”. He also asserted that “this sets these
approaches apart from most of the history that has been written in most of the world
during the past hundred years”. Distinctiveness was assured by a concern for movement
of “objects, people, ideas and texts” across boundaries. As Isabel Hofmeyr argued:

The key claim of any transnational approach is its central concern with movements, flows
and circulation, not simply as a theme or motif but as an analytical set of methods which
defines the endeavour itself. Put another way, a concern with transnationalism would direct
one’s attention to the “space of the flows”.

This is to place the focus on the means, the content and the consequences of “a whole
range of connections that transcend politically bounded territories and connect various
parts of the world to one another”, as Beckert framed it, while recognising that “rulers,
empires, and states are important in structuring them”. Transnational history is thus
intrigued and perplexed by mobility. In this it differentiates itself from postcolonial
approaches, which are shaped by a narrative of “domination and resistance”. Its ambi-
tion is rather to undermine political claims to hegemonic and foundational status and
highlight the permeability of states and nations, “making visible a wider range of politi-
cal possibilities”. Its approach is connective in that it attends not only to the impact of
movement on both the sending and receiving societies, but also on the act of mobility
itself, studying the migratory patterns, the middle passage, the transport links or the
distribution networks, and the channels along which the chosen subject traverses the
landscape or seascape.
In thinking about these trends the contributors to this chapter will explore the four-tiered model proposed by Beckert, examining ‘objects, people, ideas and texts’. It is our central proposition in doing so that the new agenda implicit in exploring transnational dimensions, as opposed to traditional national approaches to subjects such as industrialisation, imperialism, jurisprudence and political philosophy, enhances our understanding of the vexed and problematic nature of those developments. Too frequently history is written through the prism of the state. Here we contend that a more comprehensive, more fertile history of collaboration, contestation and combination is possible. This new agenda, in other words, provides an analysis of global politics and economy in the 21st century and exposes some of the central myths we have inherited from the ages of communities and nations.

While the source of national identity has been located in the banal nationalism of everyday institutional terminology – television stations (such as the British Broadcasting Corporation), newspapers (“The Irish Times”), and signifiers – stamps and flags – transnational endeavours complicate the static correlation between the symbolic objects of the state and communal action\(^\text{10}\). Although there is a presumption of a shared cultural practice that supplies nationhood with its affective content (for instance, in the paintings of Edward Munch or the musical adaptations of folksong by Béla Bartók), transnational studies of social formation highlight the composite nature of peoples and their constructed cohesion. Equally, just as the ideology of nationalism relies upon a series of intellectual predicates from which the national universe is deduced, so a transnational sensitivity can highlight anomalies and illuminate intersections across the globe that help universalise ideas of dignity, toleration and respect. Whereas the inclusion of national narratives in school books, academic studies and historical romances (such as Walter Scott’s highly popular Waverley novels) generates in a modernist model the active citizenship of plebiscites, transnational studies premise a less stable, less integrated narrative of democratic origins, in which ideas of citizenship are forged in combat across national domains. In other words, at each of the four levels of conceptual analysis, in examining objects, people, ideas and texts, comprehension of the transnational dimension opens new avenues of research and offers new modes of understanding.

**Objects**

How then are we to understand the emotional and affective quality of the networks that criss-cross national boundaries? Aisling MacQuarrie explores here the consequences of previous globalisations and imperial projects in terms of the emotional connections generated through commercial exchange. Certainly, early modernists have been concerned with viewing various seas and oceans as regions worth studying\(^\text{11}\). The Baltic, for instance, has been rethought as a market in which raw materials and manufactured goods were traded along its shores and across its waters. More
ambitiously, there has been a growing concern for navigating the Atlantic not only as part of the exploration of the emergence of capitalism, but also in charting the political squalls of the 17th and 18th centuries. Even the British Empire of the 19th century has been reconfigured as ‘an empire of information’, in which commercial activity was just as central as political control.

In what follows MacQuarrie looks to the transnational dimension to provide a new agenda for the politics of identity that has informed much recent cultural history, arguing for the re-establishment of a macro-economic perspective. Her contribution focuses on how the North West Company traversed state boundaries and forged personal ties of interest and trust that did not map onto any traditional, nationalist road-map. But she presents her argument in such a way as to recognise the affective power of the object: in this case that the North West Company’s economic tentacles were centred not just on London and its financial hub, but on the European fashion for hats. One is reminded of Allan Ramsay’s exquisite portrait of Jean-Jacques Rousseau, that poet of personal freedom, dashing ally attired as an Armenian peasant, in headgear possibly stitched from the pelts culled from Canada’s interior. The link between personal identity (freedom), social appearance (fashion) and economic interest (trade) is beautifully illustrated here.

The North West Company, a fur trading enterprise based in Montreal and dominated by Scots, developed a commercial operation that extended across the boundaries of Europe, North America and the Orient. The Company is generally famous for its exploration of unknown lands and river systems and its persistent search for an overland passage across British North America to the Pacific. The voyages of Alexander Mackenzie to the Arctic Ocean in 1789 and to the Pacific in 1793, Simon Fraser’s ventures along the river systems of British Columbia in 1806-1808 and David Thompson’s expedition to the mouth of the Columbia river in 1811, extended the physical boundaries and knowledge of the British Empire. The raison d’être for the Company’s exploration and exploitation of these newly discovered river systems was not the glory of Empire, but the pursuit of trade. The streams, straits, lakes and rivers that flowed throughout the wilderness of British North America were the vital arteries and communication routes that connected the far-flung, fur-trapping lands with the avid markets of Europe and the Orient. With such a vast operation the Company depended upon a network of importers and exporters of goods, insurers, financiers, and shipping agents. The enterprise’s activities criss-crossed boundaries and borders, both in the material export of its commodities and in the multiple associations and partnerships developed in the execution of business. The research of other CLIOHRES groups has unearthed the mobility of individuals and groups; thus, for example, Lud’a Klusáková has focused on the importance of ‘routes’ as a means of both dividing and connecting people. Indeed, the Company’s strength did not rest solely in its exploration of new river systems but also in its ability to navigate and exploit new socio-economic highways. This section
Transnational Dimensions

expands upon some of the themes touched on in previous CLIOHRES research and attempts to ascertain the character of these networks and what this tells us about the nature of the British imperial economy in the late 18th century.

Curiously, most fur-trade historiography has failed to examine fully the nexus between the micro and macro levels of the North West Company’s fur trading enterprise. The majority of studies have focused on the organisation’s activities within the confines of Canada, or in relation to its main competitor, the Hudson’s Bay Company. The strength of this kind of scholarship lies in its detailed account of the Company in comparison with its business rival. Only two important works from this ‘Laurentian school’ examine the fur trade more broadly\textsuperscript{15}. \textit{The Fur Trade in Canada} attempts to connect patterns of Canadian economic development to others within the Western world\textsuperscript{16}. Similarly, \textit{The Commercial Empire of the St Lawrence, 1760-1850}, views Canada’s development bilaterally with that of Britain. The key argument of the Laurentian school, typified by these works, is that geography determined, in large part, Canada’s economic fortunes\textsuperscript{17}. However, this is a rather narrow, deterministic perspective that neglects other variables that influenced the development of the fur trade and its overall contribution to the Canadian economy. Later 20th-century scholarship witnessed a growth in cultural and ethno-historical approaches, which have devoted particular attention to the role of women and, even more specifically, to that of Native American women within marriage, and how they were active economic agents within the development of the fur trade\textsuperscript{18}. Such works are welcome for their ability to illustrate how the First Nations people were key actors in the local fur trade economy, which was strengthened by the social ties they formed with fur traders such as the Nor’ Westerners.

However, these approaches are limited as they fail to recognise the scale of the Company’s ambition and the wide reach of its trading activities. The macro-economic scale of the fur trade has recently been somewhat sidelined by the cultural and ethno-historical trends outlined above. The North West Company did operate at local, regional and national levels as traditional histories have demonstrated, but it also functioned on a transnational level. Essential to the Company’s success, and to the evolution of the fur trade as a whole, was the cultivation and development of social-entrepreneurial networks across North America and Europe. It was crucial for the merchants to spin a wide web of connections allowing them to tap into different markets and respond to the ever changing demands of the trade as their commodities crossed and re-crossed boundaries. The North West Company was a transnational commercial institution in the same way in which the research of TWG6 has illuminated the increasing trans-national activity of the mercantile community across Europe at the same time\textsuperscript{19}. One example can be seen in Victor Zakharov’s study of 18th-century Russian merchants and how they became engaged in a ‘system of world transcontinental contacts’ and the ‘decisive role’ this played in the development of Russia\textsuperscript{20}. Similarly, David Hancock asserts that it was through networks that “Europeans developed their own economies and that of their
colonies and empires” and how “European states and colonies grew to wealth and great-
ness.” Recognising the transnational dimension of the Company’s activities places it in a wider socio-economic framework and allows for a more meaningful understanding of not only the fur trade but also of the nature of 18th-century private enterprise.

The demand for furs existed largely because of a fashion in hats. In the 18th century the broad-brimmed hat signified a man’s status as honourable and respectable. Beaver fur, which was one of the principal pelts the Company exported, was ideal for the production of the broad-brimmed hat as the long, barbed, guard hairs from the under layer of the beaver’s coat were suitable for the felting process. The finest and thickest pelts were to be found in some of the coldest regions of north-west Canada, such as in Athabasca. This was a costly and arduous business due to transportation, climatic conditions, supplying goods, packaging furs and shipping them to markets, not to mention fending off the constant threat of competition. In total it took 42 months from the time the necessary trade goods ordered from England reached the interior in order to be exchanged for furs, which were then packed, shipped and auctioned, and turned into profit. With such a lengthy trade cycle it was vital for fur-trade merchants to keep overheads low, and to ensure they had reliable and regular suppliers and, most importantly, readily available credit. Indeed, once the trade goods reached Montreal it was two years before they could be turned into cash, which in the words of Nor’ Westerner Alexander Mackenzie, made this “a very heavy business.”

In 1787, the two principal shareholders of the North West Company, the Scotsman Simon McTavish of Stratherick, Invernesshire, and the Yorkshireman Joseph Frobisher, joined their “Fortunes and Names in a general Co-partnership, one half each” to supply the North West Company in a bid to “keep up our present Influence and Interest in that country.” With McTavish and Frobisher as the principal shareholders in the Company, and through the establishment of their new subsidiary house, they were able to consolidate their growing control over the affairs of the Company by appointing their firm to be solely responsible for the supply of goods and the direction of its external activities. It was through this mechanism and management that the North West Company was able to extend its reach and develop the means to send furs to the markets of Europe as well as the Orient. With the House McTavish & Frobisher acting as executives over the North West Company, it began aggressively to penetrate further into the north west, opening new posts at strategic points on the rivers to meet the Native Americans directly on their own ground and secure their business. With expansion, however, pressure on the organisation’s logistical and financial structures began to increase. Edwin E. Rich has calculated that from the total of the Company’s exports of beaver pelts to England, Russia took a quarter and France and Holland took about an eighth each. It should be noted that many of the furs sent to Russia found their way to China. Frobisher, in a letter to his creditors, emphasised the value of the Russian market for Canadian furs:
When you consider the very bad prospect of the sale of Furr from the war between the Russian & Turks, which shuts the communication with China – some of the most considerable debts due to me being payable in Fur and our great dependence being on the demand from Petersburgh for the sale of our best Beaver. Frobisher’s words also illustrate the vulnerability of fur markets to external pressures such as war, which could close down lucrative trade routes, as took place for instance in the early 1800s when trade with China became more significant as a result of Napoleon’s naval blockade of England. In such a capricious market it was essential that the North West Company be in a position to respond quickly to changes and recover any incidental debts. As London was a crucial market for the Company’s pelts, the role of the London agency was central in developing commercial contacts when adverse conditions made it imperative for the enterprise to negotiate new market destinations. Indeed, a mismanaged London agency had the potential to destroy a fur-trading company. Consequently, the connections the Company formed with its London correspondents mattered greatly as, due to the difficulties of distance, it needed to ensure it could rely on and trust in the good judgement of its agents. As the North West Company’s trading activities evolved, Simon McTavish, with his cousin John Fraser, established the London agency, McTavish & Fraser of London, in 1790, although it did not appear in the London Directories until 1796. This firm, a subsidiary of McTavish, Frobisher & Co., became the London agent and financier to the Montreal House, responsible for selling furs and shipping arrangements as well as supplying goods on favourable terms. The position of the London agency became more entrenched partly due to the growth and volume of the Company’s global trade. It was essential for the success of the North West Company to have an outpost that was able to adapt to the varying conditions of internal and external trade. The House of McTavish, Fraser & Co. became the vehicle through which the enterprise was able to do so. Additionally, the decision to use kin networks to establish the London agency ensured for McTavish that his London agent was someone he was intimately connected with, as well as someone he could trust and hold accountable. This cohesive internal structure gave the London House a solidity from which it was able to reach out and form business connections with outside interests as the enterprise expanded.

Typically the London House would have sold its furs at public auction, but the agency began to explore other outlets while attempting to form connections directly with traders. E.E. Rich cites an instance wherein John Brickwood complained bitterly to McTavish about his new business tactics and asked him to remain loyal to the ‘system of public auctions’, particularly as Brickwood was one of a small number of brokers and such tactics were likely to undermine his trade. Furthermore, John Brickwood of Brickwood, Pattle & Co. had supplied one half of McTavish, Frobisher & Co. since its very inception and had had long-standing links with the proprietors of the North West Company from the early 1780s. Given that Brickwood’s plea went unheard it would appear that
loyalty and family did not count for so much when the issue of economic pragmatism was at stake. The House formed a connection with an influential German buyer, a Mr Schneider, to whom McTavish directly consigned the North West Company’s furs, which he then shipped over in the Company vessel the *Hamburg*\textsuperscript{33}. However, the ship never reached its destination due to “too many casks” and two squabbling pilots, “who [...] never ceas’d wrangling till they had run her on shore on the Coast of Holland” [sic]. Despite John Fraser’s concerns, particularly when his “old friends the Dutch” reminded him “it’s a bad running aground at high water”, the furs were salvaged and ended up being sold in London by the underwriters\textsuperscript{34}. However, Rich observes that Schneider acted as an intermediary for this sale and was allowed his pickings of the cargo\textsuperscript{35}. After such a debacle Fraser was eager to form new connections, this time with the German furriers themselves, thereby avoiding having to deal with buyers such as Schneider. Yet it was essential not to snub or aggrieve a current or former correspondent as it could do untold harm to an organisation’s good standing in an environment where reputation was of paramount importance. Hence Fraser’s fear of exciting jealousies with former connections is understandable:

Consulted our landlord about the German Furriers, he seems to think he can get the business managed for me; if so I shall like it better than to apply to Schneider or any at the Trad- ers as it might excite Jealouseys & apprehensions\textsuperscript{36}.

Whether Fraser was successful in making direct contact with the German furriers is unknown, but it is likely as Schneider had become aware of an under-the-table deal. Later correspondence reveals that the House’s connection with him came to a discordant end. James Hallowell and his colleagues at the Montreal house, McTavish & Frobisher, were surprised at Schneider’s new connection, and mused in writing to McTavish:

A Robertson is not the kind of man Schneider would have chosen for his agent, but [...] on the other hand the rage & vindictive transfer of Schneider may have urged him to act in a manner we think inconsistent with his own interests\textsuperscript{37}.

Fortunately for the firm its reputation remained intact.

The Company’s associations with external business partners can be characterised as loose and flexible. Given the variety of strong markets outside England, in Russia, France, Holland and Germany, it made good business sense to form loose commercial connections with trading partners. This highly globalised process of networking afforded the Company the necessary flexibility to respond to the varying demands of the trade. If it was in its best commercial interests to do so, the enterprise also showed itself ruthless enough to end established partnerships, such as that with John Brick- wood (a fellow Scot who was also a supplier to the North West Company), in favour of Schneider. Indeed, the Company continually reconfigured its connections and tried to find new partners and spread the risk and cost of its endeavours. For example, Alexander Mackenzie proposed to the prominent shipper, John Murray (a Scot based in New York) a plan to ship furs to Hamburg on joint account: “I proposed to Murray to ship
some furs on joint acc’t to Hambro. He did not like it until he heard of the fate of that which has been sent & I see there can be no difficulty in making up the twenty M Drs Expected from the Beaver with the assistance of Mr Murray’s loan”.

These instances (and there are many others) suggest that the Company’s connections were fluid and subject to alteration, countering Richard Drayton’s view of imperial trading networks as “systems of connected repetition and repeated connection.” Drayton suggests that the key to understanding the development of networks lies in the oceanography of the maritime world. He contends that “the profits to be made from slaves, sugar, tobacco, furs, cottons ... came into collaboration with the oceanic winds and currents, and built cycles of repeated engagement.” However, it is apparent that the web of connections the agency cast was formed in spite of natural geography and was essentially tactical, strategic and creative. To a certain extent a locality’s geographic position aided a business in forming and integrating itself into wider webs of connections, but this hardly accounts for the actual organisation and management of these networks. For instance although the Company’s approach to networking in the external sphere can be characterised as loose and flexible, this contrasts with the internal structure of the enterprise, where concentrated kin networks dominated its management and control. This is reflected in the London House and is also true of the Montreal firm. For example, in 1795 the partners of McTavish & Frobisher were Simon McTavish, his nephew William McGillivray and his kinsmen John Gregory and Joseph Frobisher. In 1802 the House expanded to encompass Simon McTavish, William McGillivray and his brother Duncan (McTavish’s nephew), John Gregory (kinsman), Roderick Mackenzie (brother in law to McTavish’s wife and the brother of Alexander Mackenzie, formerly an agent of the firm) and William Hallowell (son of James Hallowell accountant of the firm and said to be a distant relation of McTavish). At the micro level of the trade these tight kin networks ensured that the management of the Company was cohesive and robust when it needed to be and provided it with a base from which to develop an assortment of networks with autonomous business partners at the macro level.

Between these two Houses, McTavish & Fraser and McTavish, Frobisher & Co., the balance of power ebbed and flowed. The London agency was important in the formation and development of outside connections with European buyers, but this depended on the activities of its sister House in Montreal. Their relations were not without tension. James Hallowell (accountant of McTavish & Frobisher), Joseph Frobisher and John Gregory collectively wrote to McTavish & Fraser (with a duplicate addressed personally to John Fraser) to remind the latter of the sacrifices their firm had made and “shall cheerfully make others for the promotion of our common Interests and the preservation of our common Credit.” This extract captures the relationship between these two staging posts in the North West Company’s operation and the extent to which they were bound together for the advancement of their commercial interests.
The tension within this chain was also evident when Frobisher attempted to assert the position of the Montreal House over London, reminding Fraser that “for the ruin of your whole concern, you must be well aware, depends on our stability”\textsuperscript{43}. B.R. Tomlinson argues that by the late 18th century the character of socio-entrepreneurial networks heralded the arrival of a new, more centralised structure under British control\textsuperscript{44}. However, the transnational nature of the Company’s networks can best be described using Hancock’s term ‘multi-local’\textsuperscript{45}. The organisation’s activities in both Montreal and London, and their relationship to one another, complicate Patrick K. O’Brien’s argument that it was conditions at home that allowed for private enterprise to venture overseas\textsuperscript{46}. The development of the Company’s connections depended upon the co-operation and co-ordination of both of the organisation’s staging posts in Montreal and London. While the London House was forming connections with continental buyers such as Schneider, the Montreal House was looking to associations it had built up in North America for capital, as seen in the case of the shipper John Murray, who as we have seen jointly shipped furs to Hamburg with the North West Company. The connections the Company formed with outside business interests were located both outside and inside the metropolis. The activities of these private merchants serve to undermine the ‘hub and spoke’ model common in the historical literature, as the enterprise was constructed through the movement of goods and capital across multiple boundaries. Significantly, the commercial links it developed to facilitate this system were flexible and subject to reconfiguration.

The development and expansion of the North West Company was many sided. The Company’s practice of networking and the nature of its associations suggest that the late 18th-century imperial British economy was highly fluid and mobile. Within the management of the subsidiary Houses kin networks prevailed, while loose connections with outside interests allowed the Company to be both pragmatic and expedient in its endeavours. Through these networks interaction and exchange of commodities occurred between different European powers, with goods continually crossing boundaries, but the networks of these private merchants operating in the British Empire were not repetitious as Drayton suggests. The Company required a flexibility to ensure it could respond to gluts in the market, the problematic conditions of war, or a poor choice of correspondent. For this reason the connections that existed can be described as fragile, as fur-trading patterns continually altered due to the sensitive nature and pressures of the trade. The interaction and integration of the connections and business arrangements that crossed boundaries were moreover intermittent and subject to tensions that arose between the two Houses. The fluid nature of these connections, and the fact they were formed at both ends of the imperial spectrum (in the metropolis and the periphery), further complicate the argument that mercantile networks were becoming more centralised. Indeed, given that the fur trade was, as Alexander Mackenzie argued, “a very heavy business”, it was essential for mercantile adventurers such as the Nor’ Westers to be fleet of foot in their ambitious pursuit of trade.
People

If MacQuarrie highlights how the pursuit of wealth among emerging merchant elites drove forward transnational activism, so the multi-national project of constructing a transcontinental railway line intersected with national politics and informed the identity of workers. In doing so it complicated and distorted the simple lines of power that were assumed by 19th-century nationalism. Therefore, we turn now to the commutative linkages that emerged from the industrial age, highlighting how even in the age of nation-state formation borders were porous, as the states themselves repeatedly undercut the homogeneity implicit in the national project. The analysis offered here by Momir Samardžić and Darina Martykánová – by examining the kinds of shared transnational identities that might develop in the context of transcontinental ambition – illustrates precisely how the process of state formation might have, in the international arena, augmented and enabled transnational industrial enterprise.

Means of transport are, of course, of the utmost importance for the economic development of a country. Thus, it is not surprising that in modern Europe transnational links and infrastructures have been political and economic priorities. Modern economies based on mass production could hardly have fully developed in 19th-century Europe without new types of transport. Railways contributed to the industrial revolution with their own revolution in transport, and thus became the leading technology of transnational communication. This new type of transport also expanded the possibilities for administrative and military control over territory, acting as tentacles of the interventionist and transformative state which was under construction in that period. Finally, by facilitating the exchange and expansion of ideas to an unprecedented extent, it contributed to a radical transformation of Europe and the world.

Capital exports and railway construction represented important factors in the creation of a more unified European economic system. At the same time they helped fuel a growth in trade unimaginable in the pre-railways era. Inclusion of poorly-developed areas that were rich in food and raw materials, and which provided good markets for industrial products, was of the utmost importance for industrialized countries such as Great Britain, France, Belgium, Germany and, to certain extent, Austria-Hungary. Investment was oriented towards the construction of a trans-European transport network and, as a logical next step, towards the Ottoman Empire and the Balkan states under its increasingly precarious control. Beyond the strictly economic sphere, the Great Powers viewed Balkan railway construction through the prism of their own strategic interests within the broader context of the expected dissolution of the Ottoman Empire and the resolution of the so-called Eastern question. As well as a focal point of international competition, the Balkan railways can moreover be understood as the product of a transnational group of experts and a diverse, multiethnic and multi-religious group of workers. Therefore, the Balkan railways cannot be studied within a narrow framework.
of national history. Rather, it should be approached from the perspective of international relations, as well as from a truly transnational perspective, which allows issues to be addressed that cannot be reduced to the one-on-one clash of national interests. Improving transport proved to be especially important in a geopolitically crucial territory such as the Balkans, with its “mountain chaos” where “ranges run from north to south and west to east.” Railways, especially the large cross-border lines, were, from the very beginning, perceived as highly significant not only from the economic but also from military and political points of view. Apart from individual fortune-seekers, they attracted foreign powers which saw an opportunity to promote expansionist policies. Competing plans for trans-Balkan railways “mirrored the international rivalry in this cockpit of Europe” and “inspired trials of strength” between Europe’s Great Powers. But they also reflected the interests of small, local states as Balkan versions of imperialism met with diverse struggles for national unification.

The British were the pioneers of railroad construction in the Balkans. Beginning in the 1830s, British entrepreneurs carried out railway reconnaissance in the Middle East. Their main goal was the construction of a line passing through the Balkans and Asia Minor towards the Persian Gulf, thus establishing a connection with India and opening up Western Asia for future exploitation. The first railway project in the Balkan Ottoman territories, the line from Cernavoda to Constanza (in present-day Romania) was halted in 1839 due to Russian opposition and could only be built after the Crimean War (1853-1856). That conflict, followed by the opening of the Ottoman Empire to more direct Western influence and intervention, constituted an important turning point in the construction of railways in Ottoman territory. After the war Great Britain and France wanted to use their newly-established influence to build railways and thereby open the interior Ottoman market by providing access to food and raw materials. The first Balkan railways, Cernavoda to Constanza (64 km) and Rushchuk to Varna (224 km), opened in 1860 and 1866 respectively. By-passing the Danube delta, they opened Rumanian markets to British trade. The idea of opening the Ottoman market was also behind the proposal of British entrepreneurs during the 1850s to construct a trans-Balkan railway that would connect the Ottoman capital with the Austrian border near Belgrade.

Despite the fact that the idea was British, the greatest credit for the final success of the trans-Balkan railway belongs to the Habsburg Monarchy (from 1867 Austria-Hungary). The Austrian Drang zum Meer was a direct consequence of the economic, political, and strategic interests of the Dual Monarchy in the Balkans. Its goal was to halt British and French commercial penetration, as well as Russian hopes of obtaining control over the Bosphorus and Dardanelles Straits, while at the same time solving the Eastern question and securing unrestricted access to the Mediterranean and agrarian exports from Ukraine. Austria-Hungary did everything it could to fulfill the contract signed between Baron Maurice de Hirsch (Moritz von Hirsch), a banker from Brussels, and the Sublime Porte in 1869.
The period between the start of construction of the trans-Balkan railway in 1870 and its opening in 1888 witnessed almost two decades of construction, changes in planning, and negotiations between Austria-Hungary and the governments of the Balkan states (the Ottoman Empire, Serbia and, from 1878, Bulgaria), as well as between these governments and different construction companies. At the Congress of Berlin in 1878 the Great Powers officially recognized Austria-Hungary’s decisive role in the successful completion of the railway line that by running through Austria-Hungary, Serbia, Bulgaria and the Ottoman Empire, finally connected central and western Europe with the Ottoman capital.

The Trans-Balkan railway from Belgrade to Constantinople was the only one of the numerous large railway projects that was actually completed. The late 19th and early 20th century was marked by the struggle between the two great diplomatic blocs to complete another trans-Balkan railway project. In the 1890s the Serbs and Russians revived the idea of a Danube-Adriatic line that would end on the Albanian coast and thus connect Russia and Rumania with the Adriatic while giving the Russians an additional sea outlet in the Mediterranean independent of Ottoman control. Italy wished to connect the Albanian coast near Valona with the Macedonian lines (the so-called ‘trans-Pindar project’) so as gradually to create its own sphere of interest in southern Albania. The Austrian ‘answer’ to all such plans was the Novibazar Railway Project, a north-south line connecting Austrian routes in Bosnia with existing Ottoman track leading to the Aegean and Thessaloniki and thus avoiding Serbia.

Predictably, Balkan nation-states played an important role in these railway plans. Their elites hoped to use the railways to speed up economic development in order to lessen their peripheral role in the European economy. They showed interest in the railway as a means of pursuing expansionist policies. The Bulgarian government thus prepared a trans-Balkan railway plan which by providing access to Macedonia, would benefit Bulgarian interests and aspirations. Similarly, the government in Athens hoped to connect Greek lines with those in Macedonia. Yet it was the Serbian scheme for the Adriatic line which attracted the greatest international attention. For decades Serbia had looked to the construction of this railway as a means of escaping Austro-Hungarian political and economic control. At the same time, a transport line through those Ottoman territories partially inhabited by Serbs and thus the object of Serbian expansion was seen as a means that could facilitate their future acquisition.

None of these plans was carried out despite their being for more than a decade the object of diplomatic negotiations among interested Great Powers, Balkan nation-states, and the Sublime Porte. Ottoman authorities were cautious and sometimes reluctant to license projects, torn as they were between a desire to modernize and fear of the penetration of foreign powers and of stimulating Balkan nationalist movements. During and after the reign of Sultan Abdülhamid II (1876-1909), the Ottoman state tried to bring railway building under its control, not only to prevent wasting money through speculation, but also in order to secure its strategic interests.
As has already been noted, the export of capital was an important factor in the creation of a single European economic system. The construction of a 2,500 kilometre rail line (the length agreed upon by the Ottoman government and Hirsch in 1869) was an enormous enterprise. While demanding huge amounts of investment and technical knowledge and experience, it promised enormous profits for the builder and organizer of the enterprise. Estimates of major profits attracted foreign capital and united banking firms from many different European countries. French, British, Belgian and Austrian investors were tempted by the opportunity to unite their resources and become a part of this great industrial endeavor.

The history of the first trans-Balkan railway provides an excellent example of the difficulties inherent in developing transnational economic cooperation in an area intersected by the interests of powerful states, and where laying a few kilometers of rail track could lead to disputes between several ministries of foreign affairs. In such circumstances, foreign capital had to adapt by seeking state support and by serving political goals. During the 1850s and the 1860s British entrepreneurs enjoyed the support of a government always attentive to national trade interests. Likewise, Austro-Hungarian diplomacy supported the owner of the first Constantinople-Belgrade concession in 1867, Count Langrand-Dumonceau, who headed a consortium which included the Belgian Van der Elst & Compagnie, the Parisian Crédit foncier and a group of London banks. Also receiving political backing were the Rothschilds’ Viennese Anglo-Österreichische Bank and Kredit Anstalt during their unsuccessful negotiations, while the final concessionaire Baron Maurice de Hirsch, a banker from Brussels, was connected with one of the most powerful banker families, the Bischoffsheim.

In 1869 Hirsch came to an agreement with the Sublime Porte to construct a trans-Balkan railway linking Constantinople, Adrianople (Edirne), Philippopolis (Plovdiv), Sofia, Nish, Prishtina, Mitrovica, Sarajevo, Banja Luka and Novi (on the border with Austria-Hungary), with branches to Alexandroupolis (Dedağaç) on the Aegean Sea, Yambol, the Serbian border and Thessaloniki. Even though this line was longer and more expensive, thanks to its route through the mountainous regions of Bosnia, Hirsch adapted the project to the strategic interests of the Austrian (not the Austro-Hungarian) and Ottoman governments. The main concern of the Austrians was a connection bypassing Hungary, while the Sublime Porte wished to avoid Serbia, whose government was denying its authority over this activity. Simultaneously, French and Austrian bankers and entrepreneurs were trying to reach an agreement with the Serbian government to start construction and thus open the Serbian market to foreign trade.

The situation became even more complex after the Congress of Berlin, as Serbia became independent and the vassal Principality of Bulgaria emerged on the line of the trans-Balkan railway. Other financiers and constructors replaced Hirsch, and only the construction of the Bulgarian portion was financed by native investors. The competition for the construction and exploitation of the Serbian railway was particularly in-
tricate. In the end the Serbian government, facing a choice between Austrian, Russian, French and British banks and companies, made the mistake of giving the concession to the French Société de l’Union Générale, which was itself connected with the Österreichische Länderbank. The French bank went bankrupt in early 1882 while negotiating with Hirsch over the purchase of the concession for the exploitation of the Ottoman railways. With support from Austria-Hungary, the Serbian government was saved by the Comptoir National d’Escompte. This banking firm played an important role in the final chapter of the construction of the trans-Balkan railway when, together with the Banque impériale ottomane (the Ottoman state bank, opened in 1863 and controlled by the French and British), it came to an agreement with the Sublime Porte and finished the job Hirsch had started. Finally, German capital stepped in. In 1890 a group of banks led by the Deutsche Bank and Wiener Bankverein signed a contract with Hirsch through which they bought from him a quarter of the shares of the company (eventually, this syndicate of banks acquired 88%). In the same year the Bank für orientalische Eisenbahnen was founded in Zurich; a consortium of banks drawn mainly from Germany, Austria and Switzerland, it also included the Banque impériale ottomane.60

Balkan railways not only represented an opportunity for the circulation of capital. They also constituted a space of knowledge. The people who worked building the railways constituted ad hoc transnational communities. This did not mean an idyllic environment in which differences did not matter. Instead, power was distributed and hierarchies were organized along national, socio-cultural and ethno-religious lines. Many workers were recruited locally, but there were also poorly-paid migrants such as the Crimean Tatars who worked on the Constanza railway61. Foreign companies often preferred to import engineers and qualified workers, and were inclined to hire people from their own country of origin. Sometimes, the companies were linked to industrial interests and favored the use of domestic components, which also privileged resort to foreign expertise. Ottoman laws did not impose any conditions as to the hiring of local engineers; quite the contrary, the graduates of Ottoman schools of engineering, mainly Muslims from the Balkans and Anatolia, were engaged in military and civil administration and were actively discouraged from working for private companies or as liberal professionals. First, foreign companies did not trust the expertise of Ottoman subjects and preferred to import qualified staff. However, the companies soon found it worth their while to employ men who knew how to deal with the local and central authorities, as well as with the workers. Rumanians, Bulgarians, Greeks and other Ottoman Christians (including Armenians, who were heirs of a centuries-long tradition of architecture and engineering) were an obvious choice in this regard. Some of them had studied in the schools founded in the Balkans during the 19th and early 20th centuries. Others had received their education abroad, and many had acquired their knowledge through practical training. Also involved were Polish and Hungarian émigrés who settled in the Ottoman lands, as well as adventurers and opportunity-seekers from various European countries and further afield.
Engineering work was not limited to the technical aspects of railway-building. Rather, it also involved taking on administration and management on behalf of the investing companies. Bringing engineers, clerks, and workers of different origins to work together on these projects led to an exchange of knowledge which took place on different levels, involving not only technical skills but also what nowadays would be called intercultural management. French was the *lingua franca* of the multilingual and multi-ethnic community of people who participated in this enterprise.\(^\text{62}\) And during the different phases of the railway construction, profitable multilateral relations were established. Foreign experts obtained prestigious jobs they might never have secured in their countries of origin and obtained access to the kind of expertise that distinguished them from their less mobile colleagues. Local experts enjoyed well-paid jobs, established important international contacts, and cast themselves in the role of mediators between the westerners and the Ottoman administration. For talented local young men, the construction of the railways often meant an opportunity to learn from foreign and local experts and become engineers in their own right. In many cases, work on the railways built under Ottoman rule constituted a step towards the configuration of the scientific-technical elites of the new Balkan nation-states. Furthermore, the railways represent a space of configuration of the trade union movement within Ottoman territory, which serve as yet another example of a phenomenon of transnational dimensions.

The brief overview offered here suggests that the construction of the Balkan railways is a research topic that can be best approached from multiple perspectives. Over-emphasizing borders that were more or less easily crossed by 19th-century railroads would be an all too eloquent example of nationalist narrow-mindedness. A more reasonable alternative would point to the existence of different levels on which complex dynamics of political, economic and social factors operated and intervened. Foremost amongst these was the interaction between the construction of the railways and the creation of nation-states. Such a highly contested issue as the construction of railroads in a territory which was of general strategic interest, and where a radical questioning of the legitimacy of imperial rule was taking place, invites us to resort to political, economic, social and even cultural history. A careful combination of these approaches can shed light on all the different aspects of Balkan railway construction and administration. Moreover, future research should pay special attention to the Balkan railways as a *lieu* of exchange of knowledge, scientific and technical as well as administrative and linguistic; and one which fostered the participation of workers, engineers, administrators and businessmen from many different countries, who spoke different languages, professed different religions and supported different ideological opinions. In this respect, the truly transnational space of knowledge that developed around the Balkan railways may have paradoxically contributed to the dissemination, appropriation and hybridization of the physical and discursive tools that were to contribute in a decisive way to the transformation of the Balkans into a mosaic of nation-states. In our opinion, this case
suggests that both national history and the history of international relations should be accompanied and enriched by the analysis of transnational dimensions.

**Ideas**

The study of the transcontinental railway line and the complexity of achieving its completion remind us of some of the practical limits that nation-state formation imposed on economic development. Moreover, in the coming together of a transnational collection of experts, it sets in relief how the state systems of the 19th century acted to corral, confine, coordinate and control their subjects. The census, that great 19th-century innovation which located and labelled the transient population it oversaw, presumed static populations. It accorded people a geographic location, an economic place, a racial or political personhood and a unitary identity. Migrants had the awkward habit of evading the eye of the administrator, slipping through the categories into which bureaucrats systematically divided the world, thus upsetting their calculations. They were thus banished from the official imagination.

This crude refusal to accommodate for the actual experience of people and communities has, perhaps surprisingly, survived the horrors of the 20th century, when the desire to quantify and calculate was coupled with murderous intent, in what Michael Mann has called the “dark side of democracy.” The conflicts of the last century did, however, inspire one positive institutional impulse: the determination to develop international norms and protocols that sought to lighten the darkness of democracy and preclude the kinds of conflict that displaced and disrupted populations and peoples. This impulse has a history of its own, and one that has a trans-national dimension. In Marianna Christopolos’ study of John Gennadius it becomes evident how an international array of influences informed and shaped transnational jurisprudence.

One of the principal as well as oldest means of settling international disputes is arbitration. Instead of resorting to conflict, states appeal to a neutral party (arbiter) in search of resolution, laying down the rules through which the arbiter is to form his judgment.

During the 19th century the proliferation of compulsory arbitration treaties, mostly between Latin American countries, along with the appearance of an influential European movement of intellectuals and jurists favoring the concept, marked the beginning of a new epoch. What its advocates sought was the codification of international law in order to establish a solid legal framework for the resolution of differences between states, as well as the creation of permanent institutions, such as a court of arbitration.

The dynamic of this movement became evident during the proceedings of the first Hague Conference, held in 1899. The limits on implementing arbitration, along with the possible inclusion of arbitration in inter-state treaties, were two of the main subjects under discussion. The participants decided on a Convention for the Pacific Settlement of International Disputes, which provided for international commissions of
inquiry and the establishment of a Permanent Court of Arbitration. The term ‘court’ notwithstanding, it was in essence a panel of individual jurists, from whom the Court would be composed following a request by the states involved. Rules were also formulated regarding the procedures to be followed. The conference’s major goal was to recognize arbitration as an official, international practice for resolving disputes. Nonetheless, due to the reservations and skepticism of some participants concerning possible unfavorable consequences for their standing in foreign affairs, arbitration remained optional and limited to cases that would ‘involve neither honor nor essential interests’. Reservations and restrictions aside, the proceedings influenced most of the 70 treaties of arbitration concluded between the first and the second Hague Conference (1904).

As expected, international arbitration attracted the interest of diplomats, politicians and jurists, who produced a massive corpus of pamphlets, treatises and journals on the subject. Among them can be found a pamphlet by a former Greek diplomat, John Gennadius (1834-1932). It is actually the compilation of four articles published in 1904 in the journal “Broader Views” under the general title *A Record of International Arbitration*. Believing that institutions are evolving entities, Gennadius stressed the need to study the long-run evolution of arbitration and presented a succession of cases from Antiquity to his own times. While he favored meticulous narration of these cases to in-depth political analysis, his text remains an interesting case-study, one which offers an insider’s view of the weaknesses and the strengths of arbitration as discerned by a diplomat of a fledging Balkan state, Greece, which moreover claimed to be the heir to classical Antiquity.

The author divided his 78-page chronicle of international arbitration into five periods: Greek Antiquity, Rome, the Middle Ages, and the ‘Modern’ and Contemporary eras. Influenced by current philosophical trends, Gennadius introduced the idea of progress as a basic concept for understanding different civilizations and epochs. He moreover closely associated progress with religion, which he saw as forging the context as well as the development of basic institutions. With this criterion in mind he excluded from his analysis all Eastern civilizations, noting that their religious beliefs engendered despotism, intolerance, war and fear of the supernatural, notions incompatible with the primary principles of arbitration, which he deemed to be freedom, equality and tolerance. This prejudice against Eastern, non-Christian civilizations was instilled in him by the power and ‘superiority’ of the British Empire, in whose capital city he had resided for decades.

Concentrating on Europe and America, and ever proud of his own country’s history, Gennadius traced the earliest and most complete form of inter-state arbitration to Greek Antiquity, and particularly to the function of the Amphictyons. The most famous and long lasting Amphictyony was the Delphic, a religious council of 12 members representing the dozen tribes into which the Greek people were originally divided.
Amphictyony was mainly concerned with money and other offerings at the Temple of Apollo, but due to the power of religion and to the strength of Pan-Hellenic respect for the Delphic oracle, disputes were arbitrated there, and on certain occasions the Amphictyony “became the representative body through which united Greece made her voice heard”\(^2\). It is worth noting that Gennadius devoted 24 pages, approximately a quarter of the pamphlet, to the philosophy and exercise of arbitration in ancient Greece, which reflected his aim of enhancing the stature of modern Greece by reminding Europe that his country was the first to pave the way for the advancement of civilization.

When treating the Roman Empire, Gennadius stressed that, in spite of the existence of recuperatores, judges for the conciliation of disputes between Roman citizens and strangers, and the fetiales, priests who, in their capacity as ambassadors, had the duty to declare war and confirm treaties, Rome did not in essence apply arbitration. In its international affairs and due to its feeling of supremacy towards other peoples, it turned arbitration into a mere formality\(^3\). For similar reasons, the Pope and the Holy Roman Empire did not fully appreciate the idea of arbitration, despite their claim to adhere to Christian values of love and peace. Thus the idea of arbitration stagnated during the late Antique and medieval periods. Reading between Gennadius’s lines, one can see that he believed that the major obstacle to the development of arbitration was recourse to it by autocratic institutions such as the papacy or empires. The obvious implication is that international arbitration should be organized along different lines, especially in terms of equality.

The chapter on modern times, with the subtitle “growth of opinion in support of arbitration”, is a favorable account of the advance of the idea of arbitration and international law. Gennadius explored both theory and practice. The Great Design planned by the French statesman Sully was one of the most representative examples of the new spirit. In 1603, this minister of king Henri IV envisioned a political reorganization of Europe that would be result in a loose federation of 15 member-states, to be known as the ‘République Très Chrétien’. This Republic would be administered by a Council of 40 delegates, which, as Gennadius pointed out, resembled the ancient Council of Amphictyons. Differences between the member states would be submitted to the Council for compulsory arbitration. The project provided for a federal army which would be responsible for the République’s defense against external enemies and for the execution of the Council’s decisions within its borders. This ambitious project, however, was never carried out due, among many other reasons, to the king’s assassination in 1610. Gennadius attributed its failure to at least two other factors. The first was the current state of international law, which was still ‘undefined’ and unable to offer an adequate basis for discussion of this scheme. The other was his suggestion that the ulterior motives of the great powers, such as France’s efforts, by this scheme, to weaken the Habsburg Empire, would face opposition from rival states.

The Great Design is one of the foundation stones of Gennadius’s inquiry into the development of political thought. He went on to list key intellectuals whose works had
formed the philosophical substructure upon which projects for international institutions were based. This list included such names as Hugo Grotius (1583-1645), Sir James Dalrymple (1619-1695), Gottfried Leibnitz (1646-1716), the Abbé de Saint Pierre (1658-1743), Immanuel Kant (1724-1804) and Jeremy Bentham (1748-1832). According to Gennadius, their principles were introduced into practical politics through the establishment of alliances among the Great Powers. The Holy Alliance (created in 1815 after the Napoleonic wars) and the Concert of Europe (a 19th-century system of diplomatic collaboration among the European Powers) occasionally functioned as tribunals of arbitration, or indirectly promoted it. Gennadius referred to them as the ‘moral agencies’ that made arbitration a recognized principle of international politics. He believed that the Holy Alliance and the Concert of Europe had managed to preserve peace for almost 40 years, but he acknowledged that their decisions ranged from acts which promoted international cooperation, such as the establishment of International Courts in Egypt (1875-1885), to those which increased mistrust between states, as in the case of the oppression of weaker nations, as when at the Ljubljana Conference in 1821 the Holy Alliance had condemned the Greek revolution against Ottoman rule. Gennadius’s reservation did not, however, stem merely from injured patriotism. It was also rooted in his own experience as a diplomat of a weaker state subject to the collaboration of the Great Powers.

While in Europe arbitration remained a ‘byproduct’ precisely of this limited sort of collaboration, in the American continent, countries had started to include arbitration clauses in bilateral state agreements, and to exercise it, albeit in an ad hoc fashion, through committees established for resolving disputes. Similar trends developed gradually in Europe. In the British Parliament, for example, in 1849 Richard Cobden (1804-1865) suggested that arbitration clauses should be included in all the treaties signed by Great Britain. This increasingly favorable climate gradually led to the transformation of arbitration into a judicial process, in which both jurists and representative bodies would become involved. However, arbitration was resorted to mostly by small states, or for questions of secondary importance, until the so-called Alabama Case.

In 1871 the Washington Treaty between the USA and Great Britain ended a longstanding dispute by submitting it to arbitration. Since the end of the American Civil War (1865) the US had been claiming compensation for damages done to Union ships by Confederate warships built in Great Britain. It was referred to as the ‘Alabama Case’ from the name of one of the Confederate ships that had attacked Union vessels. The claims were left pending until the Washington Treaty stipulated that the dispute be settled by an international court of arbitration. The mutual agreement of these two powers to submit to arbitration, along with Britain’s acceptance of the final decision in 1872, was recognized by many, including Gennadius, as the prime example thus far of skilful arbitration by a body of private individuals which had arrived at a solution “leaving unscathed the prestige of both litigants.” More and more European states would
follow suit. These political developments were backed by public opinion, as expressed in journals and newspapers, and in the activities of associations and leagues of a multinational makeup.

Gennadius’s narrative concludes with a notable prediction; namely, that while the power inherent in arbitration would lead to its further development, not all cases were “amenable to the test of arbitration”, and that war continue to take place. The accelerating rearmament of the Great Powers and Greco-Bulgarian rivalry over Macedonia probably strengthened his conviction that war would remain a part of the political game. Therefore, he could not state with certainty the fortunes of arbitration in the future. Gennadius had previously, however, mentioned that the ideal of universality was a legacy from ancient Greek philosophy to the notion of arbitration. Democritus, he added, stated that “for the wise man every country is habitable, since to the virtuous all the world is a Fatherland”. While Gennadius looked to arbitration as strengthening the cause of peace and the feeling of unity among nations, he clearly could not ignore the weight of countervailing forces moving in the opposite direction.

It was not just Gennadius who sensed that arbitration would bring about changes in the interaction between states. In 1896, a leading British jurist and firm advocate of arbitration, John Westlake (1828-1913), predicted that although the states of his era would support international arbitration, they would reject any form of international government that curtailed their power. He did add, however, that:

It is difficult to resist the conviction that the tendencies are already in operation which in a remote future may crystallize into some form of international government [...] the route by which this good will be reached will depend on the unpredictable circumstance which we call chance [...] We may believe that in a thousand of years from now there will be a United States of Europe and a United States of all America.

Given the period in which Gennadius and Westlake were writing it is only natural that they did not go so far as to state that arbitration could be exercised within a federal Europe or an integrated European legal system. Gennadius’s text was written at the dawn of the 20th century, when sovereignty in both its internal and external aspects was one of the fundamental attributes of statehood. National sovereignty had become the source of lawmaking within borders, while the state strove to safeguard its external sovereignty by the establishment of institutions that would act as barriers against foreign interference. A federal Europe, within which arbitration could be freely exercised, would therefore remain a distant and apparently utopian ideal. States were unwilling to relinquish part of their sovereignty by participating in schemes that required any such sacrifice, at least at that stage.

Proposals for compulsory arbitration treaties and a permanent court of arbitration developed slowly in Europe precisely out of fear of their threat to state sovereignty, and for decades the proper function of arbitration depended upon the ethical commitment of states to comply with such decisions. Yet despite these reservations international
arbitration became institutionalized toward the end of the 19th century mainly due to the steady increase in successful cases of arbitration. It also helped that the rules upon which the arbitrator would adjudicate were decided by the litigating states. This facilitated legal encounters between countries of different juridical and cultural backgrounds in which the parties could supercede, if necessary, the formalities of their own legal systems by applying either to an agreed national law or to international law. This meant that arbitration could be a very effective means of worldwide legal intercourse beyond the Eurocentric perceptions of Gennadius and the men of his time.

Arbitrators’ decisions set precedents for the development of arbitration as part of international jurisprudence and, in the course of time, it evolved into one of the basic means of integrating domestic (or municipal) and international law. All the cases cited in Gennadius’s treatise involved cases of inter-state arbitration, since the litigants were states promoting their interests or representing individual nationals. However, the establishment of the Court of Arbitration of the International Chamber of Commerce in 1923 inaugurated a new epoch in resolution of commercial differences, and to some extent in the resolution of disputes between states and private or corporate bodies. This bestowed upon arbitration a truly transnational character.

Defenders of arbitration rallied around numerous associations which worked for perpetual peace through international institutions. The ‘multinational’ character of these associations, such as the Institut de Droit International, the International Arbitration and Peace Association, La Société Française pour l’Arbitrage entre les Nations, and the American Society of International Law, supported the cause of arbitration by appealing not only to governments but also to a worldwide public. With the establishment of journals like the Revue de Droit International these bodies created channels through which the public could be informed of arbitration and international law, and aspired to influence political decision-making. This was only the beginning of the contribution of such bodies to the promotion of international legal institutions related to global values. An even greater role was to be played subsequently in the definition of human rights and their inclusion in international organizations.

In his modest treatise Gennadius was not able to predict the enormous changes that the European legal order would undergo a century later. Analyzing the evolution of arbitration from Antiquity to his own times, he traced those elements which had promoted or hindered it and concluded by simply communicating, combining hope with skepticism, his sense of the ‘inherent potential’ of arbitration. His insight was completely in tune with the needs of his era and, more indirectly, with those of a small European nation that was experiencing, in its own way, international politics and practices. Arbitration was a notion that, beginning in the 16th century, had developed alongside ideas of unity and cooperation. This theoretical and empirical tradition, along with many other factors, helped to pave the way towards greater integration. It seems imperative to follow up with further study these ‘integrating’ factors and the historical contexts within
Transnational Dimensions

which they have developed. Their broad spectrum extends from communications and trade, to human values, political institutions and economic policies. It is upon these elements that new communities (imaginary or real) are based. The European Union seems to be, so far, the best example.

**Texts**

Far from being another narrative of state-building and nation-making, Gennadius had as his focus the liminal space between states and the intersections of nations. This can also be found beyond both, on the seas, where no state’s sanction holds sway. Indeed, international law has one of its roots in the consideration of international waters and the norms that might be expected to be observed there. From as far back as Hugo Grotius’s 1609 treatise, *Mare Liberum* [The Free Sea], the trade routes that have connected Europe to its imperial outposts have prompted reflection on the natural law that underlies any state structure. This legal vantage-point on transnational history carries us beyond the growth and development of institutions of power and forces us to attend to the cultural, intellectual and philosophical underpinnings of their construction. The interaction and exchange of norms that are involved in any international treaty reveal something of the cultural predicates involved, and of the shared norms and ambitions that provide a context for mutual understanding and agreed action.

This is even the case when the result of international agreement is the development of new institutions of power-sharing and power management. Thus, the European Union has a cultural history that is embedded in a transnational context. The immediate context was, of course, the carnage of the Second World War, and the desire to re-establish trade networks in its wake. But the concept was also built upon a shared idea of Europe that had its roots in a medieval concept of Christendom, a shared experience of national communitarianism and a shared value system founded on variations of republicanism, democracy and liberalisme. Alongside such regionalism, there was also an emerging global politics, exemplified first in the League of Nations and then the United Nations. The ideals which underpin the latter are embodied in the UN Declaration of Human Rights. Here Hanne Hagtvedt Vik provides a pre-history of this document.

The concept of human rights is today often regarded in a global context and is recognized as a pillar of international politics. It was propelled into diplomatic language during the Second World War and in the immediate post-war years. With the Charter of the United Nations Organization and later human rights treaties it also became part of international law. Historians are increasingly drawn to the study of human rights, explaining why it entered the international political scene at the close of the war, and how the concept was given its particular institutional expression and specific meanings. The term ‘transnational history’ challenges us to conduct empirical research beyond the diplomatic activities of state representatives and to include the growth and transformation of ideas, as well as the political activism that brought human rights into the
committee rooms in the first place. Lawyers of different national backgrounds came to play a key role in defining the concept of ‘human rights’ and disseminating the vision of international human rights protection to policymakers and the general public. This text explores the background to one of the more significant contributions to defining precisely which rights were to be considered fundamental human rights, namely the ‘Statement of Essential Human Rights’.

This document was drafted under the auspices of the American Law Institute from the fall of 1942 to the early winter of 1944. Although its direct impact on the 1948 Universal Declaration of Human Rights should not be overstated, its drafting and final text influenced the work of the United States Department of State, the San Francisco Conference and, later, that of the United Nations Human Rights Commission. Furthermore, the project also influenced the work of other non-governmental organizations. Thus, the American Law Institute project offers an opportunity to move beyond the committee rooms of international diplomacy and towards a specific investigation of who formulated the new vision of human rights as well as revealing interconnections among the different protagonists. The aim of this text is to identify who contributed to drafting the Statement of Essential Human Rights and through this to shed light on the origins of the vision of human rights which appeared during the Second World War.

Prior to the San Francisco Conference of 1945 the term ‘human rights’ appeared only sporadically in speeches and official documents. It was used interchangeably with terms such as ‘individual rights’, ‘freedom’, ‘rights of man’ and the like. International lawyers were not unfamiliar with the idea that individuals should be protected by international law. The existence of certain individual (or human) rights that states were expected to respect and protect was well established within many countries. There were also scattered institutional and legal precedents at the inter-state level, including the League of Nations’ minority treaties, aspects of the mandates system, the concept of humanitarian intervention and the many conventions developed under the auspices of the International Labour Organisation. The innovation of the mid-1940s lay in the political and legal recognition of the generalized concept of ‘human rights’ at an international level, and the gradual formulation of the concept’s specific meanings, as well as institutions for the practical protection of these rights.

During the interwar years European lawyers played a leading role in attempts to arrive at a generally accepted definition of individual rights. In 1929, the Institut de Droit International adopted the “Declaration of the International Rights of Man”. Sixty members of the Institute participated in the meeting held at Briarcliff, New York. There are also some indications that Latin American lawyers were interested in international recognition of the concept of individual rights. Nevertheless, it is very important to remember that the issue of individual rights was only a minor issue in the international legal community at the time. During the war, the initiative passed to lawyers based
in the United States, and the first thorough discussion of international protection of individual rights as part of a post-war international order was possibly the one organized under the auspices of the World Citizens Association at the Onwentsia Club in Lake Forest, Illinois in April 1941. This conference benefited from the participation of intellectuals from various professional and national backgrounds. This multi-cultural, intellectual community of the United States was also an important foundation for the American Law Institute project on an international bill of rights.

The American Law Institute was a private organization for lawyers, judges and law professors in the United States, membership in which was exclusive and considered an honour. With the war raging in Europe, the Institute’s Executive Committee decided in 1941 to contribute its “best efforts” to “win the peace”. The formulation of a “model international bill of rights” was identified as the best means of doing this, and represented the Institute’s first attempt at formulating international legal principles. At the outset, the organizational set-up of the project was similar to that of a normal Institute project. The core would be a group of advisors charged with drawing up the model bill of rights, which would then be revised and adopted by the Institute's Council. The intention was to transmit the blueprint bill of rights which would then be revised, adopted and transmitted to interested governments as a suggestion for the peace negotiations. For this particular project the Institute's Director, William Draper Lewis, thought that the group of advisors should include individuals with “first-hand knowledge of the legal and constitutional concepts and practices of at least English-speaking, European and Latin-American countries”. It was his desire to include experts from other professional backgrounds and he hoped to secure the “sympathy and advice, though not the formal cooperation, of persons in the government”. Lewis later explained that the draft had to appeal to people of “liberal instincts in other countries”, and that the group should, therefore, represent a broad diversity of cultural backgrounds and include representatives from Russia, China and India. Due to practical and economic constraints, advisors had to reside in the United States.

Lewis was well connected in the legal community in the United States. Through correspondence and meetings with renowned experts in international law and international organizations, as well as contacts with embassies and officers of international organizations, Lewis put together a list of potential advisors. In September 1942, 17 persons were invited to serve, all of whom accepted. The group that met at the first conference was dominated by American lawyers, all with expertise in relevant fields. Manley O. Hudson and Philip C. Jessup were highly respected international lawyers. Noel T. Dowling and John E. Mulder were experts in constitutional law, including the American Bill of Rights. Warren A. Seavey had long served as a reporter to the A.L.I., and Rowland S. Morris and David Riesman, Jr. were also lawyers. The historian James T. Shotwell was primarily selected because of his position in the Carnegie Endowment for International Peace, an institution Lewis thought important to have close relations...
with, especially regarding funding needs. Similar motives lay behind the selection of Jessup and Morris. There was one Canadian member of the group, Percy E. Corbett, who was an international lawyer with close ties to the American legal community.

The European contingent was the second largest; most of whom were also lawyers. Many had fled Europe because of their Jewish backgrounds. Ernst Rabel, an Austrian, was working for the A.L.I. at the time. Karl Loewenstein was German and an expert in comparative constitutional law. Julio Alvarez del Vayo, from Spain, was a jurist, although his appointment to the A.L.I. group of advisers was probably due to his diplomatic expertise as a representative of the Spanish Republic. The British participant, C. Wilfred Jenks, was Legal Advisor to the International Labour Office. Only Henri Laugier, from France, and Ludwik Rajchman, from Poland, had professional backgrounds outside the law. There were also more informal members of the group, the most important being Durward Sandifer of the State Department, whose appointment to the project came after initiatives by William Sanders and William Draper Lewis. Sandifer had worked on international post-war planning from the summer of 1942, and as part of this task he had held a key position in Department of State’s effort to draft a bill of rights during the fall of 1942.

There were several obvious problems with the composition of the group in terms of Lewis’s desire for a global representation. Only two advisers came from outside North America or Europe: Richard J. Alfaro, from Panama, and Hu Shih, from China. Alfaro was an expert in civil law, while Shih was trained in philosophy, although Lewis admitted that he had some doubt as to ‘how far’ Shih ‘represents Chinese thought’. There was no Russian in the group. Lewis had searched, but had found it hard to locate someone that was not a representative of the Russian government. Another problem, although this did not seem to cause much concern at the time, was that so few had educational backgrounds in fields other than law. It is also important to emphasize that all were men and (except Shih) Caucasian.

The composition of the group changed over time. Some of its members spent much time and effort on the project. Others, like Shotwell and Jessup, neither participated in meetings, nor gave comments as the work progressed. The second conference was held in March 1943, by which time Hudson, Jessup and Shotwell had withdrawn from further work on the project due to heavy commitments elsewhere, as was the case with Laugier. Three European lawyers – Gerhart Husserl, Paul Weill and George M. Wunderlich – had been added to the group, along with the American lawyer Charles E. Kenworthy. In addition to expanding the number of advisors, Lewis hired John R. Ellingston and Lucie Krassa to strengthen the coordination of the project and to assist the sub-committee reporters. Later the same spring, Chicago Law Professor Quincy Wright was added to the group of advisors. Wright was a key figure in the post-war planning discussions of several internationalist organizations, where he had promoted the vision of international human rights protection. During the fall of 1943 the work
was carried out by a so-called special sub-committee, in which American dominance was even greater than before. For the third and final conference, held in January 1944, Lewis made a renewed effort to include individuals from other geographic and cultural backgrounds. Twenty-two people attended the conference. Hudson reappeared, as did Husserl, Morris, Rabel, Rajchman, Weill and Wunderlicht. Lewis also secured the participation of George ‘Leo’ M. Barakat, an American of Syrian background, who accepted the invitation to take part in the final meeting to represent the “views and culture of Arabia”. An Italian jurist, Angelo P. Sereni, also participated for the first time. Lewis had long sought to include an Indian member, and he finally succeeded when K.C. Mahindra attended the final conference and made a few written comments. With regard to the southern part of the western hemisphere, Lewis found that although Alfaro had traveled “all over” South America to discuss the Bill of Rights project with lawyers in “all the principal countries”, the project was “still short on a proper representative from continental South America”.

In February 1944, William Draper Lewis presented a report to the A.L.I. Council which contained The Statement of Essential Human Rights. After many complicated discussions the final version comprised 18 brief articles, each with a longer explanatory comment. Compared to previous documents on the concept of international individual rights, the A.L.I. version went considerably further by including political and social rights, in addition to the more well-known civil and procedural rights. However, the project never really solved the issue of what would be the most efficient way of enforcing rights on an international level. In the end, 23 of those involved in drafting the A.L.I. statement decided to sign the report, two of these with reservations.

The report indicated that the Statement had been drafted by a globally representative group of advisors who, with one exception, unanimously agreed on what rights were to be the essential human rights. The front page, for example, stated that the report was produced by a committee of advisors “representing the principal cultures of the world”. Thirteen “cultures or countries” were listed as represented among the group of advisers: American, Arabic, British, Canadian, Chinese, French, pre-Nazi German, Italian, Indian, Latin-American, Polish, Soviet Russian, and Spanish. No indication of their level of involvement or relative importance was given. This has also been repeated in historical scholarship, thus suggesting the existence of a consensus around the vision of international human rights protection. The reception of the report by foreign policy elites within and outside the United States, and also in recent scholarship, testifies to Lewis’s success in creating a report whose wide-based appeal was based on the legitimacy provided by having it drafted by a representative group of advisors. The archival records, as described above, nevertheless reveal that the project, although being the most inclusive process so far, had been dominated by American lawyers and, to a somewhat lesser extent, by their European counterparts.
The A.L.I. project and the final document influenced the expanding discourse of human rights in several different ways. Although the A.L.I. Council had decided to keep the deliberations of the group confidential, members of the group had discussed the report in general terms on many occasions, including in transnational networks of international lawyers. Furthermore, the work had influenced the deliberations of governments. Sandifer had conveyed the essence of the group’s work and several of the documents to his colleagues in the State Department. Alfaro later became Foreign Minister of Panama, and in this capacity he presented the draft to the San Francisco Conference. The Statement also gained wider circulation when in early 1945 it was printed as a pamphlet by the Americans United for World Organization.

When speaking to the San Francisco Conference in June 1945, the US President Harry S. Truman, stated that “with this document we have good reason to expect the framing of an international bill of rights, acceptable to all the nations involved. That bill of rights will be as much a part of international life as our own Bill of Rights is part of our Constitution”\textsuperscript{118}. The founding nations had included as many as seven references to human rights in the Charter of the United Nations Organization, giving the concept a more visible place than had the preceding Four Power Draft. The draft the American Law Institute advisors produced, and the advocacy by some of its members prior to the San Francisco conference, was one of the more important contributions that led to the repeated references to human rights in the United Nations Charter. It also provided the United Nations Commission on Human Rights with a text from which they could start to work. It was not the only draft international bill of rights available in 1947, but it was a particularly well developed one, and one that moreover claimed to be drafted by a globally representative group of individuals. The myth of global representativity has been sustained by later works on the history of human rights. However, women and individuals with more diverse national and racial backgrounds only weighed in when the United Nations Commission on Human Rights started drafting its international bill of rights in early 1947.

CONCLUSIONS

In this analysis of the multi-layered character of transnational history, moving from fur-lined hats, through the construction workers and engineers of the rail networks of Europe, to ideas of international arbitration and the UN Declaration of Human Rights, we have suggested a new agenda for historians. In displacing the nation-state, the study of transnational history accommodates the expression of multiple loyalties – to community, to region, to state, to pan-national institutions and to a humanism that recognises that all people embody similar complexities and confusions. Transnational history narrates the ways in which commercial activity interacts with state boundaries, it explores the interface of peoples and cultures, it explains how legal and political developments are
prompted by the experience of others, and it highlights the creative conversation of intellectuals and public actors across political boundaries. Finally, and as a consequence of all these elements, an awareness of the transnational dimension to our studies guards us against political and social reductionism by allowing us to understand international collaboration as a creative exchange, a sharing of values, and a dialogue about the future.

NOTES

1 See the chapter on Communities in this volume.
6 *AHR Conversation* cit., p. 1444.
11 See, for example, Fernand Braudel’s *The Mediterranean and the Mediterranean World in the Age of Philip II*, originally published in 1949.
13 National Galleries of Scotland, Accession Number NG 820.
14 L. Klusáková, ‘A European on the Road’: In pursuit of ‘Connecting Themes for Frontiers, Borders and Cultural Identities’, in L. Klusáková, S.G. Ellis (eds.), *Imagining Frontiers: Contesting Identities*, Pisa 2007, p. 11. For further discussion of mobility and challenging identities see this volume and volume 1 of TWG5.
15 The ‘Laurentian school’ derives its name from the Laurentian Shield, a territory laced with waterways and river routes which stretches from the St Lawrence River in Quebec to the Great Lakes and then reaches out over the Arctic, covering approximately half of Canada. This school of historians argued that the natural corridor that the Laurentian Shield forms determined the economic development of the fur trade.
17 D. Creighton, *The Commercial Empire of the St Lawrence, 1760-1850*, Toronto 1937.
21 D. Hancock, Combining Successes & Failures: Scottish Networks in the Atlantic Wine Trade, in D. Dickson, J. Parmentier, J. Ohlmeyer (eds.), Irish and Scottish Mercantile Networks in Europe and Overseas in the Seventeenth and Eighteenth Century, Ghent 2007, p. 27.

22 Philipp Rossner in his study of Scottish trade with German ports in the first half of the 18th century makes the case that the "commercial fluctuations of any European nation in the 18th century cannot be viewed separately from their global economic, cultural, social and institutional context". Although in his work he does not adopt a trans-national perspective per se, the call for adopting a broader approach in the examination of trading patterns is something which this chapter will attempt to do in terms of its treatment of mercantile fur-trading networks. See P.R. Rossner, Scottish Trade in the Wake of Union (1700-1760): The Rise of a Warehouse Economy, Stuttgart 2008, p. 17.


24 Ibid., p. 81.

25 McGill University Rare Books and Special Collections, Montreal, Canada [hereafter McGill], Joseph Frobisher Collection: MS433/1: Letterbook 1787-1788. See the letter from Simon McTavish to Joseph Frobisher, April 1787, p. 4.

26 National Archives, Kew, London [hereafter NA] BH1/3604: Articles of Agreement dated 1792-1798. The McTavish & Frobisher House held 20 out of 26 shares. In addition, Article 6 of the 1799-1805 agreement, drawn up in 1795 and designed to supersede the 1792 agreement, and commencing with the first outfit of 1799, stipulated: "It is hereby specially agreed and covenanted by and between the parties to these Present that the House of McTavish, Frobisher and Company ... shall exclusively conduct and manage the Concerns of said Company at Montreal".


28 McGill, Joseph Frobisher Collection: MS433/1: Letterbook 1787-1788. See the letter from W.D. Powell to Thomas A. Coffin, Joseph Frobisher to James McGill, Quebec 1st Feb. 1788, p. 43.

29 Rich, Hudson’s Bay cit., p. 190.

30 Hancock, Combining cit., p. 14.

31 McTavish, Fraser House and Co. Canada merchants, Suffolk lane, Cannon Lane is listed in A London Directory or alphabetical arrangement Containing the residences of the merchants, manufacturers and principal traders in the metropolis and its environs...Embellished with a plan of the Royal Exchange, [London 1796]. However the 1792 Articles of Agreement highlight that McTavish, Fraser House was in existence from 1790. The Articles of 1792 were drawn up in 1790 to commence two years later, and refer to a McTavish & Frobisher in England in the handling of furs in London. The Articles state: "the Company according to their respective share or proportion there in, as soon as the same may be placed to the Credit of the said House of McTavish, Frobisher House in England" – meaning McTavish, Fraser and Co. See H.A. Innis, Notes and Documents, The North West Company [Copy of 1792-1798 Articles of Agreement], in “Canadian Historical Review”, 1927, 8, pp. 308-321.

32 Rich, Hudson's Bay cit., p. 191.

33 Ibid., p. 192.

34 Ibid., p. 192.


36 NA BH1/1809: Letter from John Fraser to Simon McTavish, London, 16 May 1792.

37 NA BH1/1809: Letter from James Hallowell to Simon McTavish, Montreal, 18 January 1793.

38 NA BH1/1809: Letter from Alexander Mackenzie to McTavish, Frobisher House, 4 February 1798.

42 NA BH1/1809: Letter from Joseph Frobisher, John Gregory and James Hallowell to McTavish, Montreal, 31 May 1794.
43 NA BH1/1809: Letter from Joseph Frobisher, John Gregory and James Hallowell to McTavish, Montreal, 31 May 1794.
51 Commercial interests were the major force behind the smaller, local railway projects. Complex political and strategic motivations also informed large, cross-border projects.
The conflicts manifested themselves on a micro-level as well. At times the engineers had to rely on army protection as was the case of a group of experts in charge of reconnaissance and measurements for a project on the Danube-Adriatic railway in 1910. The railway builders were threatened by armed groups, which were labeled as brigands by the Ottoman authorities (Başbakanlık Osmanlı Arşivi, DH.MUI, file 25-2, sheet 27). Brigandry, however, was an all-encompassing label which might have included anyone from impoverished peasants driven from their lands to national independence fighters. While some attacks on railway builders were motivated by the conscious will to sabotage the project, most derived from the simple wish to rob.
Gennadius was the son of George Gennadius, a prominent figure in Greek education. Despite his father’s early death, Gennadius was brought up in a scholarly environment. His godfather, John Henry Hill, missionary of the American Episcopal Church, suggested that Gennadius be educated at the English Protestant College in Malta. After concluding successfully his courses, Gennadius returned to Athens where he continued his studies and attended the University, while never taking a degree. He was appointed to the Greek diplomatic service in 1870. His diplomatic career up to 1892, when he was recalled, was marked by many successes, which were attributed to his dominating personality, broad perception of politics and hard work. Self-taught in literature, history and diplomacy, he kept abreast of current affairs and gradually accumulated close knowledge of many issues related to political and diplomatic developments of his era. From 1894 to 1897 he worked as an international correspondent for the “American Evening Post”. Gennadius wrote a considerable number of papers on various subjects. In 1910 he was reappointed as a minister plenipotentiary in London and served until his retirement in 1918. Many honors were bestowed on him. For example, St. Andrews University awarded him an honorary Degree of Doctor of Law (1906), and Cambridge the honorary Degree of Doctor of Letters (1915). For details see D. Nicol, Joannes Gennadios, the Man: A Biographical Sketch, Athens 1990.


Gennadius, Record cit., pp. 2-3.


Gennadius, Record cit., pp. 8-9.

It was not only Gennadius who stressed Rome’s failure to apply arbitration properly. Louise E. Matthaei expressed similar views in The Place of Arbitration and Mediation in Ancient Systems of International Ethics, in “Classical Quarterly”, 1908, 2, pp. 241-264.

Gennadius mentions Grotius’s De Jure Belli et Pacis (1652), Leibnitz’s Codex Juris Gentium Diplomaticus (1693), the Abbé Saint Pierres’s Projet de Paix Perpetuelle (1713), and Kant’s Perpetual Peace (1796). It should be noted, however, that it was the Renaissance philosophers who first brought up the idea of natural law and, therefore, promoted the study of international law. See M.N. Shaw, International Law, Cambridge 2003 (5th ed.), p. 22.

See C. Holbraad, The Concert of Europe: A Study in German and British International Theory (1815-1914), London 1970.

Gennadius, Record cit., p. 57.

It should be noted that the first compulsory arbitration treaties were signed in Latin America, and that generally the inclusion of (voluntary) arbitration clauses in treaties was very common there. See Cory, Compulsory Arbitration cit., pp. 3-19.


Gennadius, Record cit., p. 70.

Ibid., p. 78.

Ibid., p. 21.

Westlake, International Arbitration cit., p. 4.


Many weighty books have been produced on commercial international arbitration. See, for example, *Fouchard Gailland and Goldman on International Commercial Arbitration*, eds. G. Gaillard, J. Savage, Hague 1999.


For a contemporary example see Hanne Hagtvedt Vik’s contribution below.


John P. Humphrey, the Canadian lawyer who was appointed as the United Nations’ Human Rights Director in 1946, has explained that the A.L.I. Statement was "the best of the texts on which I worked", and that he “borrowed freely from it”. See Humphrey, *Great Adventure* cit., pp. 31-32. Humphrey authored the Draft Outline of an International Bill of Rights which is UN document E/CN.4/AC.1/3/4, June 1947. Many scholars who have written on the Universal Declaration of Human Rights have quoted this passage from Humphrey’s autobiography. See, for example, J.H. Burgers, *The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century*, in "Human Rights Quarterly", 1992, 14, p. 473; Lauren, *Visions Seen* cit., p. 153. Johannes Morsink also recognizes the importance of the A.L.I. Statement in his authoritative account of the drafting of the Universal Declaration, although he also mentions other texts Humphrey used. See Morsink, *Universal Declaration* cit., pp. 6, 131-132. The impact of the Statement on the Universal Declaration should not be overstated as the work of the United Nations Commission on Human Rights was a collective effort which drew on many sources.


The existence of a legitimate right for a state to be concerned with the treatment of the subjects of another state had been formulated by the 16th-century jurist Alberico Gentili, followed by Hugo Grotius. This has been coined ‘humanitarian intervention’. For a recent scholarly discussion of the status


97 A Chilean draft resolution on individual rights had been discussed at the International Conference for the Maintenance of Peace in Buenos Aires in 1936. See the letter from W. Sanders to W.D. Lewis, 27 August 1941, Item 1, Box 6052, American Law Institute Papers, Biddle Law Library, University of Pennsylvania Law School, Pennsylvania, Philadelphia (hereafter ALI).

98 World Citizens Association, *The World’s Destiny and the United States*. The participants were Ray Lyman Wilbur* (chairman); Antonin Basch; Anita McCormick Blaine*; Henri Bonnet; Edwin H. Cassels*; Ben M. Cherrington; Percy E. Corbett; Edwin R. Embree*; Herman Finer; Paul Hagen; Edvard I. Hambro; Alvin S. Johnson; Charles S. Johnson; Paul U. Kellogg*; Hans Kelsen; Enrique De Lozada; Edgar A. Mowrer; Ludwik Rajchman; Arthur Ramos; Krishnalal Shridharani; Adlai E. Stevenson*; Arthur Sweetser; Kathrine Taylor; Henry W. Toll*; Sigrid Undset; Julio Alvarez del Vayo; Charleton Washburne; William W. Waymack; Ray Lyman Wilbur; and Quincy Wright*. Those marked with an asterix formed the Central Committee of the Association. Frank Aydelotte and Charles G. Burlingham and Joseph H. Davies did not participate in the conference. Wright had been one of the founders of the organization and was its secretary. See also, World Citizens Association, *A Statement of Its Purpose*, Chicago 1939.

99 Minutes of the Executive Committee of the ALI Council, 1 November 1941, p. 14, Electronic Resource, PLL; The American Law Institute, *Memorandum in re Project Model International Bill of Rights*, 6 December 1941, Item 11, Box 6051, ALI.


103 *ALI Council* cit., 20 June 1942, p. 24, Electronic Resource, UPLS. Apparently, an exception was made for those residing in Canada.
Sanders, who worked for the Department of State, had consulted informally with Joseph Jones and Shepard Jones, who had responded favourably. See the letters from W. Sanders to W.D. Lewis, 3 and 4 September 1942, Item 33, Box 6053, ALI; W.D. Lewis to W. Sanders, 10 September 1942, Ibid. Lewis then sent a formal request, see: Letters, W.D. Lewis to C. Hull, 23 September 1942, Item 36, Box 6053, ALI; W.D. Lewis to L. Pasvolsky, 23 September 1942, Ibid. See also: Minutes, Executive Committee of the ALI Council, 31 October 1942, p. 26, Electronic Resource, UPLS; Minutes, Executive Committee of the ALI Council, 19 December 1942, p. 39, Ibid.

104 Memorandum, Summary of Information in re Bill of Rights Advisers of the American Law Institute, accompanied: Letter, W.D. Lewis to K. Durant, 20 January 1943, Item 34, Box 6052, ALI.

105 Minutes of First Conference of the Advisers, 5-7 November 1942, p. 36, Item 21, Box 6051, ALI.

106 Memorandum, Summary of Information in re Bill of Rights Advisers of the American Law Institute, attached to: Letter, W.D. Lewis to K. Durant, 20 January 1943, Item 34, Box 6052, ALI.

107 Minutes of Second Conference of the Advisers, 4-6 March 1943, p. 1, Item 22, Box 6051, ALI.

108 International Bill of Rights Project, Minutes (Summary) of Meeting Special Subcommittee, 3, 4-6 and 7 August 1943 (Hereafter: Minutes, Special Subcommittee, 3-7 August 1943), Northeast Harbor, Maine, Item 25, Box 6051, ALI. Loewenstein, Mulder, Alfaro and Riesman had been invited, but were unable to participate, see: Letters, Loewenstein to W.D. Lewis, 28 August 1943, Item 42, Box 6052, ALI; W.D. Lewis to J.E. Mulder, 17 August 1943, Item 45, Ibid.; W.D. Lewis to D. Riesman, 17 August 1943, Item 48, Ibid.

109 International Bill of Rights Conference, Saturday Sessions, 8 January 1944, Item 24, Box 6051, ALI; Proceedings, Sunday, 9 January 1944, Ibid.

110 Letter, W.D. Lewis to G.M. Barakat, 23 December 1943, Item 30, Box 6052, ALI. Barakat had been suggested by Quincy Wright.

111 Letter, W.D. Lewis to A.P. Sereni, 28 December 1943, Item 1, Box 6053, ALI.

112 Letter from W.D. Lewis to P.C. Jessup, 22 December 1943, Item 30, Box 6053, ALI.

113 The American Law Institute, Report to the Council of the Institute and Statement of Essential Human Rights by a Committee of Advisers, representing the principal cultures of the world, 7 February 1944, Item 44, Box 6054, ALI. The document is today known as the “Statement of Essential Human Rights”.

114 The American Law Institute, Report to the Council of the Institute and Statement of Essential Human Rights by a Committee of Advisers, representing the principal cultures of the world, 7 February 1944, p. 8, Item 44, Box 6054, ALI. Durant, Husserl, Jessup and Shotwell refrained from signing the report. Durant and Lewis were later included in the list. See Statement of Essential Human Rights. By a Committee Appointed by the American Law Institute, in “Annals of the American Academy of Political and Social Science”, 1946, 243, p. 18.


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