INTERNATIONAL LAW WEEKEND 2014 KEYNOTE ADDRESS

DEMOCRATIZATION OF FOREIGN POLICY AND INTERNATIONAL LAW, 1914-2014

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I. INTRODUCTION

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I. INTRODUCTION

I am honored to follow in the footsteps of previous presidents of the American Society of International Law who have spoken on the occasion of the International Law Weekend in New York. Some of my predecessors generated truly memorable sound bites in their keynotes, which live on in the Proceedings of the American Branch of the International Law Association and are remembered and quoted in international law classrooms. It was at the podium on International Law Weekend in November 1992 that my esteemed and beloved Columbia mentor Louis Henkin uttered one of his most famous sentences: "Away with the 'S' word!" The S-word, of course, is sovereignty. Under the title, "The Mythology of Sovereignty," Henkin explained:

"It is time to bring sovereignty down to earth. ... cut it down to size, ... repackage it, perhaps even rename it. The quintessential among us might grid for a campaign to extirpate the term and forbid its use in polite political and intellectual company or in international law. Away with the 'S' word!"

I pay modest homage today to Henkin's deconstruction of sovereignty, by invoking the concept of a democratic people as the holders of popular sovereignty. My project is to trace a century-long trajectory of greater and

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Louis Henkin, Notes from the President: The Mythology of Sovereignty, AILN Newsletter (March-May 1993).
greater popular participation in the making of foreign policy decisions and the implications of that trend for our field of international law.

From a baseline of 1914, we can plot democratization along several different trend lines. The starting point would be the "sovereigns," if I may call them that, on their respective thrones or other metaphoric seats of power in 1914. In Christopher Clark's valuable study, *The Sleepwalkers: How Europe Went to War in 1914*, which I purchased in an airport bookshop on a trip to Central Europe this spring, we find three evocative photographs beginning on the facing page for a heading "Sovereign Decision-Makers." The first shows Kaiser Wilhelm II and Tsar Nicholas II in a carriage, wearing the uniforms of each other's countries. The next page has a close-up of Kaiser Wilhelm, followed by King Edward VII, father to King George V who would accede to the British throne in 1910, followed by an illuminating discussion of the genealogical ties among the monarchial club and comparisons of the degrees to which the three monarchial cousins had or had not been brought under constitutional and parliamentary restraints. Our photo gallery would also show Emperor Franz Joseph of Austria-Hungary, along with military and civilian leaders in each of these countries, and of course representatives of the decision-makers in France's Third Republic, as portrayed, for example, in the photographs reprinted in Margaret MacMillan's *The War That Ended Peace: How Europe Abandoned Peace for the First World War*—which I found at the bookshop of the Australian War Museum in Canberra, just after having visited its sobering exhibit on Gallipoli and paid respects at the wall decorated with poppies where the names of the war dead are inscribed.

3. Id. at 170.
4. Id. at 171.
5. Id. at 172.
6. Id. at 172.
7. **Clark**, supra note 2.
9. Id. at photo 18 (showing Helmut von Moltke, chief of the German General Staff), photo 23 (showing Herbert Asquith, British prime minister (1908–1916)), and photo 25 (showing Sir Edward Grey, British foreign secretary (1905–1916)).

Our first trend line for democratization, then, would be the processes already well underway in 1914 and much accelerated by the Great War, of transformation from a world in which a small and closed club of European monarchs took their decisions largely behind closed doors, to one in which monarchical sovereignty gives way to constitutional governance.

A second trend line involves the dramatic expansion of the voices that could enjoy at least some degree of participation in choosing the leaders of their countries. Recall that in 1914 the women's suffrage movement was still far from achieving its goals in most European countries. According to Karen Knop's valuable study, *Diversity and Self-Determination in International Law*, women were years or even decades away from achieving the vote in any of the countries that went to war in 1914. Here in the U.S., the Nineteenth Amendment giving women the right to vote was not ratified until 1920 (though a dozen American states had opened up the vote to women by 1917). Britain partially enfranchised women by the end of the World War but not fully until 1928. Knop gives the following dates for women's suffrage in a selection of countries: Denmark (1915), Austria (1918), Poland (1918), Germany (1919), and Hungary around the same time, but France, Italy, Japan, and Yugoslavia not until the 1940s. The remarkable story that Knop tells in her book is of the interactions among self-determination movements in the interwar period and women's suffrage movements and women's peace movements in the same time frame, with women in many cases being given the right to vote in international plebiscites to determine the future status of self-determination units, even before their sisters enjoyed the corresponding right to vote in the metropolitan powers.

With self-determination we have our third trend line: the emergence from colonial domination of a very large number of new subjects of international law and establishment of new states, with the possibility that the peoples of those states could find their own voices in international relations and in international law. Much of that story belongs to the period following the Second World War, and I can only allude to it briefly today. Suffice it to say that the handful of monarchs who ruled Europe in 1914 also dominated...
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10. Id. at photo 17 (showing General Joseph Joffre, chief of the French general staff, and President Raymond Poincaré).
11. MACMILLAN, supra note 8.

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non-European continents, thereby embroiling not just Europe but the world as a whole in the conflagration that began in the summer of 1914. After the Great War, the Wilsonian self-determination program and its embodiment in the Versailles Treaty led to the creation of a number of new states who were then admitted as members of the League of Nations. Even at its height, however, the League had only fifty-eight members, as compared to the 193 members of the United Nations today.

The question of democratization in relation to the system of international organization is a vast problem beyond the scope of my remarks today. It is relevant, however, to the linkage between decision-making authority at the international and national levels, with respect to the main problem that I will address here, namely the democratization of foreign policy decisions with respect to international peace and security. Under the international security structure established after the Second World War, the U.N. Security Council is vested with principal responsibility for the maintenance of international peace and security. Many today consider the Security Council an indefensibly undemocratic body. There may well be merit to the demands for structural reform to allow for a broader-based representation within the Security Council. Even so, until a new system is devised and adopted, this imperfect organ is where much of the deliberation and decision-making over peace and security takes place.

These three main trends line—transformation of monarchies into constitutional systems, expansion of political participation across numerous societies, and the emergence of newly-independent states—intersect with other century-long developments that have likewise worked profound changes how foreign policy decisions are taken and how international law is made and applied. A more complete narrative would also take account of how domestic civil rights movements—for example in this country—intersected with the international human rights movement. As historians such as Mary Dudziak have documented, the Cold War confrontation gave powerful motivation for the U.S. government to demonstrate commitment to the advancement of the civil rights of African Americans in this country.18

We would also want to examine, in more detail than is possible here, the significance in different societies and at different points in time, of compulsory military service, with universal conscription (at least of men) even in peacetime having been the norm in most countries. As Margaret MacMillan reports (in one of a dozen index entries on conscription), “[i]n the late 19th century every European power except Britain had a conscript army, with a small proportion of their trained men actually in uniform and a far larger number back in civilian

19. MACMILLAN, supra note 8, at xxvi.
20. Id. at 296.
22. CLARK, supra note 2, at 509.
23. MACMILLAN, supra note 8, photo 29.
24. Id. at photo 34.
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In the histories of how and why Europe went to war in 1914, mobilization of the armies figures prominently in the narratives. Clark’s Sleepwalkers characterizes the Russian general mobilization as “one of the most momentous decisions of the July crisis.”22 MacMillan gives us a photo taken in Berlin on July 31, 1914, with a caption reading, “On 31 July 1914 Germany took the first step towards general mobilisation and so to making war on France and Russia. Standing outside the old arsenal in Berlin, a lieutenant announces the state of ‘imminent threat of war’ in the traditional way.”23 Another photo shows families in Berlin waving goodbye in August 1914: its caption reads: “These troops from the reserves may well have been heading for the front lines, something the French had not counted on. As a result, French armies and the tiny British Expeditionary Force faced a stronger German attack than they had expected.”24

Let’s move ahead to a much later point in the twentieth century, where conscription and democratic politics interacted in a different way. In the generation of which I am a part, the fact that young men were drafted in large numbers to serve in the Vietnam War, and resistance to the draft in that generation, were among the reasons for the adoption of the Twenty-Sixth Amendment to the U.S. Constitution in 1971, in which the voting age for all elections was lowered from twenty-one to eighteen (1971 happens to have been the year that I turned eighteen, so I could cast my first vote in the 1972 presidential primary). The Twenty-Sixth Amendment enfranchised a segment of the population, eighteen to twenty-one-year-olds, that up until that time had been subject to compulsory military service without having being able to vote for or against the elected officials who would send them to fight abroad. Of course, only men were subject to the draft then, and that discrimination between men and women has persisted in the selective service registration system even though conscription is no longer in effect. Now, in the United

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19. MACMILLAN, supra note 8, at 326.
20. Id. at 296.
22. CLARK, supra note 2, at 599.
23. MACMILLAN, supra note 8, photo 29.
24. Id. at photo 34.
States and many other countries, military service is voluntary, which is a relevant factor in the political context for taking decisions to use force.

Before we leave the 1914 era and move to the segment of the century within the memories of most of us here, I would like to illustrate how civilians of the time anticipated the possibility of war. MacMillan gives us a photo showing Greek boy scouts training in first aid, with this caption: “All across Europe, civilians were urged to emulate the military and demonstrate such qualities as discipline, sacrifice and patriotism. Scouts and cadets were a manifestation of militarism. These boys in the Balkans also show the growing readiness for war in that troubled part of the world.”

The next photo (again from MacMillan’s book) shows a festival celebrating Joan of Arc: the caption observes that such commemorations of great historical figures helped to fuel intense nationalism in many European societies—the irony here being that Joan of Arc had “fought against France’s new friend Britain.”

A final photograph from this period shows the Archduke Franz Ferdinand and his wife Sophie in Sarajevo on June 28, 1914, just before their assassination by Gavrilo Princip (shown in the inset in the upper corner).

II. MAIN THEMES FOR DEMOCRATIZATION OF FOREIGN POLICY IN THE CURRENT PERIOD

I would now like to turn to the more recent part of our century-long period and take up one particular set of situations in which the demand for democratic decision-making asserts itself most strongly, namely the decision to commit national military power to an international military coalition. We could take a narrative arc that begins with Iraq’s invasion of Kuwait in August of 1990 and the international military response of January 1991, then continues through the attacks of September 11, 2001 and the subsequent international intervention in Afghanistan, and then the renewal of military action in Iraq in 2003, and then the brink of a military intervention in Syria in after the chemical weapons attacks of last year, and finally the military engagement involving more than twenty coalition partners cooperating to suppress the so-called Islamic State of Iraq and Syria today. This selection from among the many military interventions of the last twenty-five years can illustrate six key propositions about democratic participation in foreign policy decisions and about the relevance of international law to those decisions:

25. Id. at photo 15.
26. Id. at photo 16.
27. Id. at photo 28.

(1) Parliaments, and the people they represent, have been demanding a greater role in decisions to make external military commitments.
(2) Governments have become more inclined to accede to these demands, not only politically in relation to specific conflicts, but also by accepting the need for improved constitutional arrangements to enhance parliamentary involvement.
(3) Constitutional changes are in fact discernible in the direction of consolidating constitutional requirements for parliamentary participation.
(4) Parliaments and public opinion are increasingly concerned to connect constitutional decisions on war powers with the international legal appraisal of a military commitment.
(5) Courts are increasingly being asked to rule on the constitutionality of military engagements, or their compatibility with international law, or both, and in some cases have constrained the executive from supporting military actions that fall short of constitutional or international norms.
(6) All of the foregoing phenomena are noticeably affected by corresponding developments in other constitutional democracies.

Until recently, relatively few countries have had a clearly established constitutional rule on whether parliament is entitled to be consulted, to deliberate, and to participate affirmatively in decisions about the use of military force abroad. For example, when the first Iraq war was about to begin in January of 1991, the U.S. Congress deliberated and voted for an authorization for military force in accordance with its constitutionally-mandated responsibility under Article I of the U.S. Constitution. A number of other democratic parliaments followed suit, but in most of those cases, the assumption in the context of the constitutional systems of the participating countries was that the national executive sought political support for political reasons and not because of a constitutional requirement to do so. Indeed, for the two most significant military powers that joined with the United States in the 1991 coalition, namely the United Kingdom and France, it would have been the mainstream constitutional assumption that the Prime Minister in the British case and the President in France’s case could have taken the relevant decisions on the basis of executive authority, without any constitutional requirement for parliamentary participation. The situation in those two countries has dramatically changed in constitutional terms in the intervening years, to the point that we can discern meaningful change in the United Kingdom’s unwritten constitution and a formal constitutional amendment in France’s case.

28. This section of the lecture draws on Lori F. Damrosch, Coalitions of the (Un)willing: Iraq, Afghanistan, and Constitutional Decisions for War (unpublished work-in-progress).
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25. Id. at photo 15.
26. Id. at photo 16.
27. Id. at photo 28.
Until the trends of the 1990s and 2000s that have produced global constitutional demand for greater parliamentary involvement in war powers decisions in many democratic politics, the war power in the United Kingdom had always been considered to fall within Crown Prerogative, to be exercised by Her Majesty’s Government without necessarily involving parliament, other than perhaps to be informed as events unfolded. Similarly, in France, under the 1958 Fifth Republic Constitution drafted to accommodate sweeping presidential powers to address external and internal security threats, President Charles de Gaulle and his successors could take decisions on deploying military force without consulting or seeking approval from the National Assembly. The same was true in most constitutional democracies in the modern period.

By the time of the first Iraq War of 1991, we begin to discern shifts in these patterns, first with national executives turning to their parliaments for political support to commit military forces to collective security engagements, and then with greater constitutionalization of these emerging practices. In the early 1990s, the German Federal Constitutional Court rendered several significant constitutional decisions interpreting the German Constitution to require parliamentary approval of external military commitments, in principle in advance. Parliaments elsewhere began paying attention to what other parliaments were doing, especially when multilateral troop commitments were involved and some national parliaments were already deliberating and voting.

Over the course of the 1990s and 2000s, especially in the wake of the second Iraq War of 2003 and the backlash either that parliaments had not had sufficient opportunity to deliberate and vote, or that they had been misled, we can discern trends to build in greater safeguards to ensure that parliaments would know both the factual and legal basis in IL for a proposed decision.

In the several post-mortems on the 2003 Iraq War, including in the United Kingdom where the Iraq Inquiry headed by Sir John Chilcott is moving toward completion of its work, a key theme has been the deep disagreements over whether the renewal of armed force in Iraq in 2003 had proceeded on the basis of flawed legal advice conveyed as answers to parliamentary questions—in particular, whether there was a proper basis under the U.N. Charter to resume military action in March 2003 without a new, sufficiently explicit authorization from the U.N. Security Council. In the course of the Chilcott inquiry, an unprecedented amount of attention has been given to differences of views on the questions of international law involved in the matter.

Meanwhile, by 2006, outside the context of a particular military crisis and on a bipartisan basis, the House of Commons endorsed a motion offered by then-Leader of the Opposition David Cameron, essentially crystallizing a kind of constitutional consensus on parliamentary participation in any further decisions to use military force, as indeed has become the practice in the United Kingdom and was followed last year with respect to Syria in the votes taken on August 29, 2013. What was different about last year’s Syria votes was that for the first time ever, the government (by a narrow margin of thirteen votes) did not achieve majority support for its motion and thus abandoned the plan for Syria to join the United States in making a forcible response to the use of chemical weapons in Syria. Questions about international law figured prominently in the House of Commons debate.

To bring us up to the present ISIS crisis, Prime Minister Cameron recalled the House of Commons for a vote that was held on September 26, 2014, which, by a margin of 524-43, authorized British participation in the military coalition against ISIS, but not in an unlimited way. Significantly, the resolution does not authorize ground troops in Iraq nor air strikes in Syria.

At the same time, and indeed on the same day, Belgium’s parliament approved the deployment of fighter jets, cargo planes and military support to help fight ISIS in Iraq. Denmark which is one of the countries with a clear constitutional rule requiring parliamentary approval of military engagements, followed suit and is contributing fighter jets to the coalition. Similarly, on October 7, 2014, the Canadian parliament voted to contribute aircraft and personnel to the military effort. What we see in these illustrations is that national parliaments are serving as the forum for deliberation and debate over fundamental foreign policy decisions.

In parallel, the counterpart in France to the global constitutional trend in favor of greater parliamentary participation in use-of-force decisions was the adoption in 2008 of an amendment to the war powers article of the Fifth Republic Constitution, to the effect that for any military engagement that continues for longer than four months, the National Assembly must vote to approve its prolongation. The preparatory work shows the influence of the US WPR.

Concerning France and Syria, President François Hollande indeed took the same position as President Obama in insisting that the atrocities committed by means of chemical weapons in Syria required a forcible response. On the international law dimension, Hollande was quoted as having said, “[i]nternational law must evolve with the times. It cannot serve as an excuse to allow mass murder.”28 Under the French Constitution as amended in 2008, the President of the Republic has constitutional power to make a military commitment on his own, provided that it can be executed within a four-month time frame; at that point, the parliament is required to authorize an extension. Thus President Hollande could have gone forward with a limited use of force

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for a limited period of time, without needing to go to his own parliament. But
in the wake of the U.K. vote, both President Obama and President Hollande,
neither of whom had previously appeared inclined to place the matter before
the national legislatures, both concluded that they should not proceed
unilaterally, or at least should begin consultations with a view to determining
whether the respective legislatures would be prepared to back up their
positions. The National Assembly thus convened and debated the Syria crisis
on September 4th in an extraordinary session. Not surprisingly, the leader of
the opposition demanded to know, “Where is the U.N. resolution?”

Concerning the tendency of democratic parliaments to look across the
English Channel, or across the Atlantic, and to engage in a kind of
benchmarking of constitutional practices, the following snippet from the
French debate may be illustrative. French parliamentarians wanted not only a
debate on Syria, but a debate that would be just as good as the British debate—
just as profound, just as illuminating, and just as decisive. French Opposition
Leader Christian Jacob “went on to compare the French debate of an hour and
a half unfavourably with the debate of 10 hours in Westminster.”

III. DIFFICULTIES—OR, THE "DARK SIDE" OF DEMOCRATIZATION OF
FOREIGN POLICY

In my research on these trends over the long term, and in my remarks up
to this point, I began with a working assumption that democratic involvement
in the crucial decisions on whether or not to commit national military power to
international military coalitions is much preferable to the historical starting
point of early-twentieth-century monarchs taking their decisions behind closed
doors, or the mid-to-late-twentieth-century counterpart of the “imperial
Presidency” (in Arthur Schlesinger’s term) or “imperial Prime Minister” doing
so without much, if any, parliamentary participation. But my actual position is
more nuanced. Although democratic participation can and should improve the
process for achieving better outcomes, or at least to a closer fit between
national policies and what the democratic public represented in parliament is
willing to support, it does not necessarily mean that parliament’s decisions—or
non-decisions—will produce what the international system sorely needs,
namely an optimal level of the global public good of peace and security for all.
Let me identify a few concerns that I have about parliamentary checks and
controls, and more generally about the spreading of responsibility for
decision-making about international security over a very broad base.

30. Ben Smith, In brief: National positions on Syria intervention, LIBRARY HOUSE OF
Commons (Sept. 5, 2013), available at http://www.parliament.uk/briefing-papers/aa6723.pdf (last
visited Apr. 1, 2015).

31. Olivier Guilla, ISIS Jihadists Returning to Europe, WORLD AFFAIRS JOURNAL,

Three general areas of to investigate would be: (1) Can parliaments and
publics have enough information in real time to participate meaningfully in the
hard decisions? (2) How effective can national parliaments be in exercising
responsibility for these matters, especially where, as we see all too often, they
are gridlocked or even pathologically dysfunctional in carrying out their
ordinary responsibilities? (3) Will democratic parliaments rise to the
challenge of exercising responsibility for international security decision-
making in an era when terrorist threats and even actual terrorist attacks strike
at the democratic process itself?

This week’s events in Ottawa are a too-vivid illustration of the third of
these concerns and challenges. Even before knowing what would be going on
in the world or in our neighbor Canada’s capital city on the day of my lecture,
I was already planning to devote a short portion of my remarks to the problem,
perceived or real, that threats of violence against a democratic people or
against its leadership or the symbols of its national power could factor into
parliamentary decision-making in a different way from how national executives might
weigh such threats. In the draft-in-progress on the day before a terrorist attack
on Canada’s parliament and the National War Memorial adjacent to it on
Parliament Hill, I was going to comment on several incidents in which
parliamentary deliberations over how to respond to a particular international
security threat have taken place against the shadow of what some
parliamentarians, and the publics they represent, might perceive as a threat to
attack the country itself or its citizens anywhere in the world if the parliament
votes in favor of supporting an international military coalition. Such a threat
might emanate from a violent non-state group such as ISIS, whose spokesman
has used social media to publicize the following ugly exhortation:

If you can kill a disbelieving American or European—especially the
spear-carrying and filthy French—or an Australian, or a Canadian, or any
other disbeliever from the disbelievers waging war, including the
citizens of the countries that entered into a coalition against the
Islamic State, then rely upon Allah, and kill him in any manner or
way, however it may be.

Or, in a different kind of example, on the eve of French parliamentary
deliberations last year on whether France should make a military response to the
use of chemical weapons against civilians in Syria, Le Figaro carried an interview with Bashar al-Assad of Syria, which was understood as a threat to
French interests if France attacked Syria. In the Assemblée, several deputies
saw this threat as an attempt to manipulate parliament.
for a limited period of time, without needing to go to his own parliament. But in the wake of the U.K. vote, both President Obama and President Hollande, neither of whom had previously appeared inclined to place the matter before the national legislatures, both concluded that they should not proceed unilaterally, or at least should begin consultations with a view to determining whether the respective legislatures would be prepared to back up their positions. The National Assembly thus convened and debated the Syria crisis on September 4th in an extraordinary session. Not surprisingly, the leader of the opposition demanded to know, “Where is the U.N. resolution?”

Concerning the tendency of democratic parliaments to look across the English Channel, or across the Atlantic, and to engage in a kind of benchmarking of constitutional practices, the following snippet from the French debate may be illustrative. French parliamentarians wanted not only a debate on Syria, but a debate that would be just as good as the British debate—just as profound, just as illuminating, and just as decisive. French Opposition Leader Christian Jacob “went on to compare the French debate of an hour and a half unfavourably with the debate of 10 hours in Westminster.”

III. DIFFICULTIES—OR, THE “DARK SIDE” OF DEMOCRATIZATION OF FOREIGN POLICY

In my research on these trends over the long term, and in my remarks up to this point, I began with a working assumption that democratic involvement in the crucial decisions on whether or not to commit national military power to international military coalitions is much preferable to the historical starting point of early-twentieth-century monarchs taking their decisions behind closed doors, or the mid-to-late-twentieth-century counterpart of the “imperial Presidency” (in Arthur Schlesinger’s term) or “imperial Prime Minister” doing so without much, if any, parliamentary participation. But my actual position is more nuanced. Although democratic participation can and should improve the process for achieving better outcomes, or at least to a closer fit between national policies and what the democratic public represented in parliament is willing to support, it does not necessarily mean that parliament’s decisions—or non-decisions—will produce what the international system sorely needs, namely an optimal level of the global public good of peace and security for all. Let me identify a few concerns that I have about parliamentary checks and controls, and more generally about the spreading of responsibility for decision-making about international security over a very broad base.


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IV. CONCLUSION: THE RELEVANCE OF INTERNATIONAL LAW

So what, then, is the relevance of these democratizing trends for our field of international law? How is international law figuring in national decision-making processes? Specifically, are national parliaments paying attention to international law? The right kind of attention? Are they serving as organs of compliance with international law, as well as organs of constitutional control over executive war-making initiatives? Do parliaments understand international law well enough? Do they understand it in the right way? Are they getting good advice on questions of international law as a predicate for exercising their constitutional functions?

Clearly, parliaments are paying more attention to international law than ever before. The backlash against the sense of having been misled about the legal basis for the 2003 war in Iraq certainly figured prominently in subsequent developments in the British House of Commons. There have been post mortem inquiries about the Iraq war not only in the United Kingdom, but also in the Netherlands, and not long ago Denmark decided to launch a comparable inquiry, which is expected to take several years. In each of these instances, the inquiry has addressed or will address not only what might have been done wrong in 2003, but how decisions processes can be improved for the future. International law is being examined closely in each of these inquiries. Elsewhere, for example in New Zealand, certain parliamentarians have pressed for framework legislation that would require a certification of international legality as a predicate for any national commitment to an international military operation, but so far these bills have not garnered enough support to be enacted.

Lawsuits in other countries have insisted that courts should rule on the legality of their country’s participation, or proposed or potential participation, or even passive involvement, in a challenged international military operation. Although few of these lawsuits succeed (and in this country they almost inevitably fail on threshold grounds, such as lack of standing of a congressional plaintiff or the political question doctrine), initiation of litigation raising claims under international law is one way that advocates have drawn attention to the underlying legal arguments.

I will close by adverting to an essay published by Eliahu Root, founder and first president of the American Society of International Law, in the first issue of the American Journal of International Law in 1907, which he titled, “The Need of Popular Understanding of International Law.” As democratic publics play an ever-growing role in making foreign policy, that need has never been greater.