

Death of a Peace Settlement – Birth of a Principle

by

Peter M. Southwood

Abstract

The thesis outlined here is that the failure of the post-Cold War peace settlement in 1990, like that of the Paris Peace Conference in 1919, was predictable based on ‘an irenical perspective’. Through an English charity law case, which the author undertook in person, he obtained from a High Court judgment on 9 October 1998 an authoritative definition of that term, which was emphatically endorsed by the Court of Appeal on 28 June 2000. Following the Iraq Inquiry Report of 6 July 2016, he has demonstrated H.M. Government’s continued rejection of an irenical perspective in 2003 by a claim for judicial review in 2018. Their position is shown to amount to a rejection of the Inquiry Report’s central conclusion and highlights the necessity for political scientists to apply this perspective, if a future Great Power war is to be avoided.

Introduction

This author was convinced at the end of the Cold War in 1990, and in the years that followed, that the peace settlement enshrined in the joint non-aggression declaration of the North Atlantic Alliance and Warsaw Pact members, and the CSCE Charter of Paris for a New Europe,¹ would put the United Kingdom and its allies on the path to war. However, it is one thing to believe something to be true but quite another to prove it beyond reasonable doubt. This article explains how the issue arose and why the author deemed the principle at stake so important that all else must be subordinated to it if educational bodies were to be able to contribute meaningfully to restoring the prospects for peace and avoiding a global conflict.

There are three main dimensions to this issue: educational, legal and theological. To some extent they overlap, though secularists may be relieved to learn that there will be no overt religion here. This article will focus on the role of education at the interface with politics where, paradoxically, the primacy of the latter stands at odds with its failure in 1919 and 1990 to bring about a lasting peace between former enemies. The next one will tackle the legal dimension since what is, or is not, educational is a matter of law and not of academic opinion, however eminent.² Four subsequent articles are intended to explore related themes: the role of the mass media; the relationship between politics and religion; charity regulation; and the theology behind any genuine peace movement. The last article will focus on public benefit.³

The shadow of the Paris Peace Conference in 1919 stands over this thesis as it did over the Briefings of the Project on Demilitarisation in the early 1990s.⁴ The grim consequences of the Great War, an avoidable tragedy, and the inevitable failure to make it ‘the war to end all wars’, leading instead to the Peace Conference contributing unwittingly to a yet greater cataclysm in 1939, should concentrate all minds, academic or lay. If the legal principle of ‘an irenic perspective’ is to take its rightful place beside the rule of law and the scientific method in the record of human progress in the nuclear age, no less is demanded.

1989 – 1994

The author submitted his doctoral thesis on ‘Arms Conversion and the United Kingdom Defence Industry’ as the Cold War was beginning to unwind. The sub-title, with which he wrestled for a long time before finding the right formulation, read ‘An evaluation of policies for the diversification and conversion of military industries’.⁵ This is the proper function of education, as opposed to the promotion of the policies in themselves which is political. It enabled the author in his book out of the thesis to predict what policies would, and would not, work in the 1990s which appeared to hold up well despite the scale of changes being far greater than anyone anticipated in 1989 when the book was written.⁶

The same distinction was at the heart of Project 2000, subsequently renamed the Project on Demilitarisation (Prodem). The author had written a series of short papers in the latter half of 1991 describing a series of ‘briefings’ which might be written, if funding could be obtained, on the opportunities and dangers of the current international situation. Colleagues’ reaction was positive and funding of £63,500 over two years was obtained from the Joseph Rowntree Charitable Trust in June 1992 to produce and publish these Briefings.

A background paper that year outlined the two specific aims of Prodem:

1. To fundamentally question the new forms of militarism arising in the West in relation to:
 - its recent record;
 - current official policies;
 - the likely consequences for the future.
2. To propose alternative policies to achieve disarmament and a conversion of resources from military to civilian purposes.⁷

The term ‘militarism’ was defined as ‘an undue prevalence of warlike values and ideas’.⁸ The paper went on to emphasise the greater sophistication of the ‘new militarism’ than earlier cruder versions:

There are very great dangers for Britain, and the wider world, if the contentions made by this new form of militarism are not tested against the facts. Its very skilfulness, in the management of public opinion and presentation of aggressive military postures as ‘defence’, may lead eventually to over-confidence and a disastrous miscalculation (as has happened in the past).

The author edited, and wrote most of, the four out of six Prodem Briefings related to Aim 1, while his colleague, Dr Steve Scofield, was responsible for two Briefings related to Aim 2. They were all published between March 1993 and October 1995.⁹ The author's briefings contained specific forecasts that were testable against the subsequent course of events. The last Prodem Briefing, entitled Military Adventurism: Learning from the Past – Looking to the Future included an Appendix E explaining the concept of competing academic analyses of conflict areas as a basis for evidencing '... which analytical approach is proving superior in terms of foreseeing the dangers of military adventurism and proposing a path to peace.'¹⁰

While this work was proceeding a separate legal dispute with the Charity Commission got underway about the charitable status of Prodem. This will be discussed more fully in Article no. 2 but it is necessary to mention here that, after spending several weeks in the Bodleian Law Library in Oxford researching charity law, the author made a submission to the Charity Commissioners in July 1994 making the case for the registration of Prodem as a charity. (Prior to that, the main activities of Prodem had been incorporated into the University of Leeds.)

This submission coined the expression 'an irenical perspective' as the basis of the case and did not dispute that the political promotion of disarmament was not charitable in law. However, it was contended that it should be differentiated from proposing such policies.¹¹

1995 – 2000

This period, dominated for the author by the legal case – and an international war between NATO and Yugoslavia in 1999 of a kind not seen in Europe during the Cold War – produced a politically impartial legal framework that the academic community in England and Wales need to take on board, albeit belatedly. The salient points from the judgment of Mr Justice Carnwath (as he then was), in which he reviewed the relevant legal authorities concerning trusts directed to promoting the security of the nation by military or peaceful means, are:

In conclusion, therefore, it seems that the promotion of good international relations as such is not a charitable purpose; but education as to the benefits of good international relations, and the means of achieving them, will qualify. By the same token, whether or not the promotion of peace in itself is charitable, there is no reason to exclude, from the scope of charity, education as to the benefits of peace, and as to peaceful methods of resolving international disputes.¹² [Emphasis in the original.]

The crucial point here for academics in relevant disciplines is the distinction between 'good international relations' which are of a subjective, political character and 'peaceful methods', which the judge goes on to show can be distinguished from military techniques. In this respect the case of Parkhurst -v- Burrill (1917) from the Supreme Court of Massachusetts, which upheld as charitable a gift to World Peace Foundation, proved decisive.¹³ Carnwath J. again:

The importance of Parkhurst -v- Burrill, for Dr Southwood's purposes, is that it accepts that a purpose may be educational, even though it is based on the premise that people should be educated as to the 'evil effects' of war, and has therefore what the Commissioners referred to in the present case as an 'irenical perspective'. Although it is not direct authority for the purposes of English law, I do not see any reason to take a different view. I see nothing controversial in the proposition that a purpose may be educational, even though it starts from the premise that peace is preferable to war, and puts consequent emphasis on peaceful, rather than military, techniques for resolving international disputes; and even though one purpose of the education is to 'create a public sentiment' in favour of peace. The important distinction, from the 'political' cases mentioned above, is that the merits or otherwise of the Labour Party's views on education, or (in the early 1940s) of a state health service, were matters of political controversy. The desirability of peace as a general objective is not.¹⁴

The term 'irenical perspective' is defined in both its negative and positive aspects: the 'evil effects' of war; and the consequent emphasis on peaceful over military means of conflict resolution. (Later, as the Court of Appeal would agree, this is not pacifism.)¹⁵ Here, then, are objective standards for educational bodies to apply. The findings of impartial research do not need to be left to political institutions to apply. As the author had believed, there is an objective standard to apply in controversial international disputes that can play a major role in ensuring that the public have non-political sources from which to make informed choices.

Further interest arises from the fact that the Attorney General, as Defendant in this case, chose to attack Prodem's Aim 1 rather than Aim 2, which the Commissioners had focused on. The trial judge went along with this in his judgment. This gave the author the opportunity on appeal to demonstrate, using the Respondent's own affidavit evidence regarding dictionary definitions of 'militarism' as well as his Prodem definition, that he had not used the term tendentiously. The Court of Appeal returned to the evidence concerning Aim 2 to decide that Prodem was not established for exclusively charitable purposes – though this did involve conflating the author's view with that of his colleague which that evidence did not permit. The important point for posterity was that the High Court's view on an 'irenical perspective' was emphatically upheld and a new Trust could then be established to take forward the main part of Prodem's work into the new millennium.¹⁶ That the Appeal judgment was handed down on *28 June* 2000 seemed to the author replete with historical irony.

Before turning to the next phase, it might be asked why the author took this course rather than submitting an article to a refereed journal? The answer is that no suitable journal exists.

2001 – 2018

A. International Peace Project²⁰⁰⁰

As the Court of Appeal had provided the precise wording of a Trust object founded on an irenical perspective, which would be for the public benefit, it remained for the author to set it up. The single objects of the IPP²⁰⁰⁰ are:

... the advancement by all charitable means of the education of the public in the differing means of securing a state of peace and avoiding a state of war.¹⁷

Advertisements for Trustees were published in two journals in August/September 2001, at the time of the 9/11 tragedy, and the Trust Deed executed on 2 November 2002. Eventually seven Trustees were appointed and the Trust finally entered on the register of charities on 6 February 2004, eleven years after Prodem's application for registration had been rejected.

The revised objects clause was well-suited to putting into effect the competing analyses of conflict areas envisaged in the last Prodem Briefing. The trial 'Peace Games', as these competitions were now called, were focused on the Israeli-Palestinian conflict at the time of the Israeli withdrawal from Gaza in 2005. The first IPP Briefing on the prospects for peace was published on a new website in January 2006.¹⁸ The author applied his Prodem-tested method of analysis to predict periodic war. The first of these wars affecting Israel and Gaza occurred a few months later and there have been three more since then, judged by irenic criteria.¹⁹

So difficult has it proved to gain any interest or participation from academics in England and Wales, either in the Peace Games concept or applying irenic criteria for judging the course of events in the conflict area (or 'Court of history') that IPP Briefing No. 1 required the welcome participation of an academic in Israel and another in the USA, to ensure that Israeli and Palestinian perspectives were taken into account. IPP and author correspondence with the related academic community in England and Wales, including evidence of misconduct by a Commissioning Panel of the Economic and Social Research Council, is omitted here.

Suffice it is to record that by 2008, after IPP's first seminar in Jerusalem on 30 September 2007, the application of irenic criteria to international conflicts could be taken no further despite the undoubted success of the trial peace games and the related seminar. After another legal interlude, concerning the Atlantic Council of the United Kingdom, whose registration as a charity was challenged in vain by the IPP Trustees despite the Court of Appeal judgment of 28 June 2000, IPP focused from 2010 to the present day on Zimbabwe. There it has pursued a 'Peace and The New Constitution' educational project with gradual progress.²⁰

Paradoxically, IPP's predominant aim of evaluating conflict areas had to be subordinated, for now, to its secondary goal of promoting the benefits of peaceful means of conflict resolution.

B. The (Second) Gulf War and the Iraq Inquiry Report

Nearly a decade before the invasion of Iraq, a Prodem Briefing entitled Western Generals: The Dangers from British and American Military Success foresaw, out of the first Gulf War in 1991, the resistance that would follow to broadening the concept of military security:

Yet this seemingly impregnable position faces a major test. The very cautiousness of British and American generals militates against going to war except when victory is certain. But unless they do go to war from time to time – and win – the legitimacy of their force levels and role will be questioned. If a new Saddam conveniently sets himself up to be hammered into the ground then the military security concept will

gain a further lease of life. More likely is that eventually vital Western interests will be challenged by a political crisis which mirrors all the complexity of Bosnia [in 1994] but cannot be sidelined. Suddenly the avoidance of casualties would no longer be possible because this implies the conflict is not that important. The two linchpins of the generals' approach to war in the Gulf – extreme caution and avoidance of high casualties – would be lost. If, to cap it all, the scenario involves economic and political instability, ethnic conflict and social and environmental disaster, as most civil wars do, the risk of Western political and military failure would soar.²¹ [Emphasis in the original]

Over a long period a climate for war was built up, particularly between the terrorist attacks on the United States of America on 11 September 2001 and the invasion of Iraq on 19/20 March 2003 led by US forces with UK support. The involvement of the UK armed forces ended in 2009 and an independent Privy Counsellor Committee of Inquiry was established by the then Prime Minister to learn lessons from the events of that controversial six-year period.

There are just two conclusions of their immense Report of 6 July 2016,²² which it is necessary to highlight here, as contained in the Committee Chairman's public statement that day.

First and foremost:

We have concluded that the UK chose to join the invasion of Iraq before the peaceful options for disarmament had been exhausted. Military action at that time was not a last resort.²³

Secondly, while declining to express a view on whether military action to invade Iraq was legal which could only be resolved 'by a properly constituted and internationally recognised Court', the Chairman observed:

We have, however, concluded that the circumstances in which it was decided that there was a legal basis for military action were far from satisfactory.²⁴

The Iraq War Families Campaign Group took up the latter challenge by requesting a Legal Opinion on whether there was a basis in the Iraq Inquiry Report to seek civil remedies against certain state officials in the English courts. When this Legal Opinion was published on 18 December 2017 the IFCG Press Release acknowledged that 'the combination of the UK's underlying constitutional arrangements, and recent significant judgments of the higher courts, have closed off any possibility of such proceedings being commenced.'²⁵ So their Campaign ended.

Nevertheless, the author was clear that the Inquiry had adopted an 'irenical perspective', albeit without explicitly using that term:

'... the UK chose to join the invasion of Iraq before the peaceful options for disarmament had been exhausted' [Iraq Inquiry]

'the premise that peace is preferable to war,... puts consequent emphasis on peaceful, rather than military, techniques for resolving international disputes' [Carnwath J.]

The attitude of Lord Goldsmith, as the Attorney General at the time of the invasion, and the current Attorney General, to ‘an irenical perspective’ and their role as Law Officers and public protectors of charity in upholding that principle was tested by a claim for judicial review in the Administrative Court. Their response that the claim was to be certified by the Court as ‘totally without merit’ was readily granted by the first judge despite numerous errors of fact, misrepresentations and a serious procedural or other irregularity, which had the effect of denying a public hearing of the case. More importantly, it proved conclusively that Attorneys General, past and present, were resolutely opposed to the application of an irenical perspective as enshrined in the Prodem case. On appeal to the Court of Appeal, where the decision of the Administrative Court was upheld, the judge had to refrain from any reference to the Prodem case, without which the author’s claim could not have been made.²⁶

Yet H.M. Government’s response to the House of Commons Public Administration and Constitutional Affairs Committee report of Session 2016-17 on Lessons Still To Be Learned from the Chilcot Inquiry, which was received on 19 December 2017, had stated:

At the most strategic level, the Government accepted that taking the country to war should always be a last resort and should only be done if all credible alternatives have been exhausted.²⁷

So, ‘at the most strategic level’, the Government has created the misleading impression of accepting the Iraq Inquiry’s central conclusion, while really rejecting it by replacing ‘an irenical perspective’ with a subjective, political standard of their own, viz. ‘all credible alternatives’. Then, they underlined that position emphatically in the ensuing legal case.

C. Centenary of the Great War, 2014 - 2018

The long shadow of the Great War has only served to underline the gravity of the position which the public now face. As part of the author’s own reassessment during that centenary he chose three historical works to add to his prior knowledge of that period.

The first, concerning the causes of the Great War, is a work by Christopher Clark entitled The Sleepwalkers: How Europe Went to War in 1914. This historian declines to enter a blame game and seeks to focus on the complex interactions of multilateral processes. His analysis recognises that state parties were not in full control of events and that the evidence anyway does not support conspiracy theories, logically possible as they may be. His conclusion is salutary and relevant to the role of education in this thesis:

The outbreak of war in 1914 is not an Agatha Christie drama at the end of which we will discover the culprit standing over a corpse in the conservatory with a smoking pistol. There is no smoking gun in this story; or, rather, there is one in the hands of every major character. Viewed in this light, the outbreak of war was a tragedy, not a crime. Acknowledging this does not mean that we should minimise the belligerence and imperialist paranoia of the Austrian and German policy-makers... But the Germans were not the only imperialists and not the only ones to succumb to paranoia. *The crisis that brought war in 1914 was the fruit of a shared political culture. But it was also*

multipolar and genuinely interactive – that is what makes it the most complex event of modern times and that is why the debate over the origins of the First World War continues, one century after Gavrilo Princip fired those two fatal shots on Franz Joseph Street.

One thing is clear: none of the prizes for which the politicians of 1914 contended was worth the cataclysm that followed...²⁸ [Emphasis added.]

The role of peace education and political impartiality is also clear if a future cataclysm is to be avoided. Speaking from hindsight, for obvious reasons, is not enough however well it is done.

The second work, on the War itself, is called 1914 – 1918: The History of the First World War by David Stevenson. It brings home the inexorable logic of the war, once started, which overwhelmed any impulse to peaceful resolution, no matter what the cost. His main conclusions bring out how the considerable benefits of Allied military victory cannot obscure political failure at the start of the Great War and in its aftermath:

The 1914–18 conflict has long possessed a sombre reputation for horror and futility,... In fact, despite imperialist accretions the Allies' central cause was neither trivial nor unworthy. The expulsion of German forces was a genuine liberation for the occupied territories, and the destruction of Wilhelm II's autocracy created an opportunity, albeit fleeting, for a more firmly rooted peace than had existed in 1914... Although these were not minor achievements, in retrospect they seemed overshadowed by the cost, especially when the war to end wars proved not to have eliminated international insecurity after all. Yet now that decades of historical research have... better enabled us to see the struggle as it appeared to the contemporaries who waged it... These changes of perspective have made it easier to understand both how the massacre could happen and why it was so difficult to stop. *Their danger is they may obscure the deeper insight that the war was still a tragedy, a vast and avoidable waste that Woodrow Wilson, for all his limitations, rightly condemned as an indictment of the political structures that produced it.* Even so, it may seem now that the decades-long cycle of confrontation and violence that the conflict initiated has finally drawn to an end... Yet since the end of the Soviet-American Cold War the spectacle of real, shooting, hot war has become not less but much more frequent and familiar, forcing the present generation to revisit age-old arguments about the legitimacy of using force in international politics... Yet any decision for war must confront the historical evidence that it is a fearfully blunt instrument, the repercussions of whose use cannot reliably be predicted and which may make matters even worse. *Intrinsic to all military undertakings, however legitimate their motives, is the risk that they will violate the principle of proportionality between ends and means, and that they too will lead to a bad war and a bad peace. The 1914-18 conflict and the settlement that followed it remain archetypes of both, and the insights to be gained from studying them have a universal applicability, if only as a distant but a forceful warning...*²⁹ [Emphasis added.]

Replace references to a 'bad' war and a 'bad' peace with an 'unnecessary' war and an 'insecure' peace, and you have the case for adopting an irenic perspective writ large.

The third title is by Margaret MacMillan. It takes us to the Peacemakers: The Paris Conference of 1919 and Its Attempt to End War. Highly informative, the book concludes that:

When war came in 1939, it was a result of twenty years of decisions taken or not taken, not of arrangements made in 1919.³⁰

Those decisions taken or not taken, though, must include those relating to the foundations laid in the post-First World War peace settlement including the Treaty of Versailles imposed on Germany on 28 June 1919. That settlement did not, on its own, cause the Second World War but it was surely a contributory factor, however unintentionally. It certainly did not involve, on the evidence in this book, an even-handed application of irenic criteria.

Conclusion: 1919 - 2019

The last Prodem Briefing A/3 brought out, in the author's statement of purpose, his view in October 1995 that the post-Cold War peace settlement was already dead:

Unless humanity can end Great Power wars, they will abolish civilisation. The dismantling of the Soviet empire broke the historic tradition of Great Power rivalry leading to war. Yet the post-Cold War peace settlement, after initial enthusiasm, has fuelled resentment and hostility in Russia against the West. Are we returning to the era of Great Power politics and, if so, can anything be done to avoid future military disaster?³¹ [Emphasis in the original.]

Two major peace settlements at the end of global conflicts, both determined by democratic or democratising states, failed according to irenic criteria. The first in 1919 contributed to an even greater scale of armed conflict in 1939-1945; the second, if it does the same, may not give the United Kingdom or any other state the opportunity to try for another peace settlement thereafter. The risks of escalation to the nuclear level are too great. Mercifully, the public does not need to rely any longer on the convictions of politicians, however sincere.

This is so even though the maintenance of the peace remains the first duty of government. The legal framework provided by a Chancery judge on 9 October 1998 could not be at odds with that constitutional principle in the UK (or any other civilised state). Yet, in providing a definition of 'an irenic perspective' in both its negative and positive aspects, the Court has offered a rational devolution of responsibilities between political and educational institutions which overlap to some degree in practice but involve principally policy-making and evaluation respectively. The negative aspect of peace – i.e. the avoidance of the 'evil effects' of war – must involve political control of military forces to deter aggression and protect its civil population but the positive aspect of peace – i.e. the emphasis on peaceful, rather than military, techniques of resolving international conflicts – is bound to be led by educational bodies applying irenic criteria to international conflicts to foresee more, or less, peaceful relationships between parties in dispute. Such advice may be increasingly difficult to ignore.

To those political or social scientists in the fields of war studies, peace studies, international politics and related subjects who say it cannot be done, the author replies it has. Nor is there the slightest rational, legal or constitutional basis for continuing to ignore his findings; especially that H.M. Government has repudiated the central conclusion of the Iraq Inquiry Report and an irenical perspective which the Inquiry adopted, without recognising the term. The role of political scientists is not to go along with the misleading statements governments may make from time to time, as in this case, but to uphold the principle upon which their work is based if it is to serve the public benefit. That does not include promoting governmental policy whose public benefit cannot be demonstrated. It does mean impartiality.

At this pivotal moment, in remembrance of the Paris Peace Conference of 1919 when the hopes of a generation scarred by the Great War were eventually dashed, the challenge is to put into effect the adoption of 'an irenical perspective' as the foundation of educational work to secure a state of peace and avoid another Great Power war. It has a similar decisive position to that of the rule of law and the scientific method. To fail is to betray our war dead.

Peter M. Southwood (Dr) is a part-time Parish Bursar in London. He is also a consultant on the direction of conflicts towards peace or war in the short and long term. In the latter role, much of his work is currently done on a voluntary basis for the International Peace Project, the educational charity (reg. no 1101966) which he helped to establish. However, there is no formal link between his consultancy role and IPP. He is solely responsible for this article and the website at www.directionofconflict.org

He can be contacted by email at consultant@directionofconflict.org

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² . Gibson J. [In re Koepler Will Trusts](#) [1984] Ch 243 at 250E.

³ . Public benefit is not to be confused with public interest. The former needs to be capable of proof, if not self-evident: Slade J. in [McGovern v Attorney General](#) [1982] Ch 321 at 333G-334B.

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- ¹⁴ . Carnwath J. in Southwood & Parsons v HMAG, para 26.
- ¹⁵ . Chadwick LJ in Southwood & Parsons v H M Attorney General, Court of Appeal No: CHANF 98/1405/CMS3 concerning the Project on Demilitarisation (28 June 2000), para. 29. See: <http://www.ipp2000.org/ipplaw.html>
- ¹⁶ . Chadwick LJ in Southwood & Parsons v HMAG, paras 29 and 30. The repetition of the words '... to educate the public in the differing means of securing a state of peace and avoiding a state of war' gave the clue.
- ¹⁷ . 'Declaration of Trust constituting International Peace Project²⁰⁰⁰' (Farrer & Co), dated 2 November 2002, clause 1.2.
- ¹⁸ . Peter Southwood (ed.), The Israeli-Palestinian Conflict, Briefings on the Prospects for Peace, Briefing No. 1 (International Peace Project, January 2006) at <http://www.ipp2000.org/index.html> (bottom of home page).
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