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DAVID DUDLEY FIELD AND HIS THEORY OF “COMMUNITY OF NATIONS” – HOW SHOULD WAR BE CONDUCTED?

Abstract

Background: David Dudley Field is usually remembered as one of the leading nineteenth-century American advocates of codification and procedural reform. Yet his writings on international law reveal a broader international project, in which the ordering function of law extended beyond domestic legal systems to relations among states. His conception of “Community of Nations” expressed the conviction that international society could be understood as a moral and legal association, although one still shaped by Christian and civilizational assumptions characteristic of his era.

Research purpose: The article examines Field’s views on war and international order through the idea of the “Community of Nations”. Its main purpose is to show that Field should not be interpreted either as an absolute pacifist or as a thinker who accepted war as an ordinary and unlimited instrument of sovereignty. Rather, the article argues that he sought to subject war to a restrictive legal framework based on complaint, response, conciliation, arbitration, and only in the final instance, justified resistance to aggression.

Methods: The article uses historical and doctrinal analysis of Field’s writings, especially his works on international codification and selected speeches collected in his miscellaneous papers. It also places his arguments in the wider nineteenth-century context by comparing them with the views and initiatives of figures such as Henry Wheaton, Francis Lieber, Henri Dunant, and Florence Nightingale, as well as with the rise of institutional projects devoted to the reform and codification of international law.

Conclusions: Field’s importance lies not only in the substance of his proposals, but also in the way he connected codification, peace, and international society into a single jurisprudential project. His thought illustrates a transitional moment in which war was increasingly seen not as a normal attribute of sovereignty, but as a phenomenon to be delayed, constrained, justified, and gradually replaced by legal mechanisms of dispute settlement.

Keywords: David Dudley Field, codification of international law, Community of Nations, law of armed conflict, history of international law, international dispute resolution.

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Introduction

David Dudley Field has long occupied a secure place in nineteenth-century American legal history as one of the most prominent advocates of codification and one of the principal architects of procedural reform. Far less attention, however, has been devoted to his later reflections on international law, war, and the idea of the “Community of Nations”. This relative neglect is striking, not only because these writings belong to the mature phase of his intellectual development, but also because they reveal that his commitment to legal order did not remain confined to state law. Rather, the same codification impulse that informed his domestic reform projects was ultimately extended to the sphere of relations among states.

The present article examines Field’s views on war through the conceptual framework of the “Community of Nations”. It argues that Field’s position cannot be adequately captured either by the language of absolute pacifism or by that of conventional nineteenth-century acceptance of war as an ordinary instrument of sovereignty. His thought was situated between those two poles. He treated war as a phenomenon that ought to be increasingly constrained by law and subordinated to a more elaborate juridical structure of complaint, response, conciliation, arbitration, and, only in the last resort, justified resistance to aggression. In this respect, Field’s international thought formed part of a broader jurisprudential project: the attempt to extend to the international sphere the values of clarity, order, and systematic legal expression that had already shaped his domestic codification efforts.

At the same time, this article contends that Field’s internationalism was marked by important limitations characteristic of its era. His conception of the “Community of Nations” was not fully universal in the modern sense but remained embedded in the Christian and civilizational assumptions that structured much nineteenth-century legal thought. Precisely for that reason, Field’s writings are historically revealing. They illuminate a transitional moment in the development of international legal consciousness: a moment in which war was increasingly brought within the horizon of legal regulation, yet the imagined community within which that regulation operated remained morally and culturally stratified.

1. David Dudley Field – great codifier and law reformer

David Dudley Field (1805–1894) was one of the most prominent American lawyers and legal reformers of the nineteenth century. He was born on 13 February 1805 in Haddam, Connecticut, into a family whose intellectual and public aspirations

left a clear mark on his later development.¹ His father, also David Dudley Field, was a Congregational minister of considerable standing, and the household in which the younger Field grew up was one in which education, discipline, and moral seriousness were taken for granted.² This family background is not a merely incidental biographical detail. It helps explain the striking intensity with which Field later pursued projects of legal reform and codification. He was not simply an ambitious practitioner; he was formed in an environment that valued intellectual effort, public usefulness, and systematic thought.³

Field received his early education before entering Williams College, from which he graduated in 1825.⁴ He then turned to the study of law, first in Albany and later in New York City, and was admitted to the bar in 1828.⁵ His early professional formation coincided with an American legal culture that was still deeply shaped by technical pleading, procedural formalism, and the diffuse authority of common law materials. Henry M. Field's biography makes clear that David Dudley Field became dissatisfied at an early stage with the practical complexity of this legal environment. In a formulation that later commentators frequently reproduced, New York practice appeared "complicated by a multitude of legal technicalities that made of it almost an occult science."⁶ This dissatisfaction proved decisive. It was not merely a practitioner's annoyance with inconvenience, but the beginning of a more comprehensive jurisprudential conviction: that the law, if it was to serve society properly, needed to become more intelligible, better ordered, and less dependent on excessive technicality.⁷

Field's name became permanently associated with the codification movement in New York. His central role in the movement for procedural reform eventually gave rise to what came to be known as the "Field Code" enacted in 1848.⁸ Yet it would be misleading to confine his significance to civil procedure alone. Henry M. Field's biography, especially in its later chapters, presents him as a reformer whose ambitions extended far beyond one code or one branch of law.⁹ Codification, for David Dudley Field, was not simply a technical solution

¹ **H.M. Field**, *The life of David Dudley Field*, Charles Scribner's Sons, New York 1898, pp. 1–3.

² **E.A. Field**, *Record of the life of David Dudley Field, His Ancestors and Descendants*, Denver 1931, pp. 57–58.

³ **H.M. Field**, *The life...*, pp. 1–3.

⁴ *Ibidem*, p. 15.

⁵ *Ibidem*.

⁶ *Ibidem*, p. 43.

⁷ *Ibidem*, pp. 43–44.

⁸ *Ibidem*, pp. 337–348.

⁹ *Ibidem*.

to procedural difficulties. It was a broader jurisprudential enterprise. He believed that law, if properly drafted and arranged, could be made more accessible to citizens, more usable for practitioners, and more coherent as a body of norms.¹⁰ In this sense, his work on practice and pleading was only the most successful and enduring expression of a much larger program. His later involvement with projects of civil, political, and penal codification confirms that he understood codification as a general method of legal ordering rather than as a narrow procedural expedient.¹¹

The later phase of his life is especially important for understanding the subject of the present article. In the 1870s, Field increasingly directed his attention to the international sphere. This turn should not be regarded as a rupture with his earlier work. On the contrary, it appears as its extension. The same mind that had sought to simplify and systematize state law now turned to the possibility of introducing order into relations among states.¹² This continuity is visible not only in the biographical narrative provided by Henry M. Field, but also in David Dudley Field's own writings. In "Association for the Reform and Codification of the Law of Nations: Its History and Aims", he clearly located himself within a project aimed at bringing greater precision and organization to international law.¹³ Likewise, the later "Outlines of an International Code" demonstrate that his interest in international legal order was neither rhetorical nor merely occasional. It formed part of the mature stage of a lifelong codifying impulse.¹⁴

2. Field and his conception of the "Community of Nations"

David Dudley Field's reflections on war were closely connected with his broader effort to conceptualize relations among states as subject to law rather than left to political contingency alone.¹⁵ In his view, nations did not exist as radically isolated sovereign entities functioning in a moral and legal vacuum. Rather, they formed a wider association bound together by common standards of conduct

¹⁰ *Ibidem*, pp. 337–339.

¹¹ *Ibidem*, pp. 300–305, 337–348.

¹² *Ibidem*, pp. 219–242.

¹³ **D.D. Field**, *Association for the Reform and Codification of the Law of Nations: Its History and Aims*, G. Hill, London 1875, pp. 3–12.

¹⁴ **D.D. Field**, *Preface*, in: *Outlines of an International Code*, 2nd ed., Baker, Voorhis & Co., New York 1876, pp. III–VI.

¹⁵ **D.D. Field**, *The Community of Nations*, in: **A.P. Sprague** (ed.), *Speeches, Arguments and Miscellaneous Papers of David Dudley Field*, vol. 1, D. Appleton, New York 1884, pp. 396–343.

and by obligations arising from their participation in an ordered international society.¹⁶ This idea constituted one of the foundations of his later reflections on international law. War, accordingly, was not treated merely as an inevitable fact of political existence, but as one of the most visible symptoms of the insufficient organization of international legal life.¹⁷

A crucial feature of Field's argument was that the community of nations was not merely descriptive. It was a normative concept. To say that nations formed a community meant, in his understanding, that they were not free to regard all questions of war and peace as matters of unlimited discretion. Their conduct was capable of legal evaluation because it was already situated within a wider moral and juridical order.¹⁸ This conviction explains why he persistently connected the codification of international law with the cause of peace. Codification would not abolish all international conflict, but it could reduce uncertainty, limit arbitrariness, and diminish the occasions on which disputes escalated into violence.¹⁹

At the same time, Field's conception of international society bore a distinctly Christian character. He did not imagine the society of states as a purely secular mechanism of coexistence. Rather, he treated it as a moral order rooted, at least in its most developed form, in the civilization of Christian nations.²⁰ The legal ordering of international relations was thus linked, in his thought, to a broader religious and civilizational vision. This point is especially important, because it shows that his understanding of international law was not simply technical or institutional. It was also moral. The possibility of a more orderly international life rested, in part, on the existence of a shared ethical inheritance among nations that recognized themselves as participants in a common civilization.²¹

That Christian dimension also shaped the limits of his universalism. Field did not consistently treat all nations as standing in the same position within the international legal order. Although he aspired to formulate a more coherent and more broadly applicable law of nations, he also distinguished between Christian states and those which, in his view, had not yet fully entered the same normative framework.²² This meant that the community of nations, as he understood it, was

¹⁶ *Ibidem*, pp. 396–399.

¹⁷ *Ibidem*, pp. 399–403.

¹⁸ *Ibidem*, pp. 396–403.

¹⁹ *Ibidem*, pp. 534–541.

²⁰ *Ibidem*, p. 415.

²¹ *Ibidem*, pp. 404–415; **D.D. Field**, *Association for the Reform...*, pp. 3–12.

²² **D.D. Field**, *Applicability of Law of Nations to Oriental Nations*, in: **A.P. Sprague** (ed.), *Speeches, Arguments and Miscellaneous Papers of David Dudley Field*, vol. 1, D. Appleton, New York 1884, pp. 456–461.

not yet a fully egalitarian or universally inclusive society in the modern sense. It remained informed by the civilizational assumptions of the nineteenth century and by a belief that legal development was most advanced where Christian moral and political traditions had taken root.²³

It would, however, be a mistake to read Field as a naïve believer in perpetual peace. He did not suggest that war could be eliminated simply by the drafting of better rules. Rather, his argument was more restrained and, in a sense, more juridically serious. He believed that the destructiveness and arbitrariness of war might be reduced if nations increasingly recognized themselves as members of a common legal order and if the rules governing their relations were more clearly stated and more widely accepted.²⁴ The community of nations was therefore both a moral imagination and a legal program. It expressed the view that states were already connected by obligations and that these obligations ought to be made more explicit through codification and reform.²⁵

This perspective should be understood in continuity with Field's lifelong jurisprudential commitments. In domestic law, he had sought to replace uncertainty and excessive technicality with clarity, accessibility, and systematic arrangement. In the international sphere, he pursued an analogous ambition. He resisted the idea that the relations of states must remain dependent upon diffuse customs, fluctuating convenience, or the mere force of circumstance. Instead, he argued that they could be brought, at least to a greater extent than before, within the discipline of articulated law.²⁶ War, in this framework, was not denied as a recurring fact of international life. It was treated as evidence of legal insufficiency and as an area in which the need for legal ordering was especially pressing.²⁷

²³ *Ibidem*, pp. 456–461.

²⁴ *Ibidem*, pp. 534–541.

²⁵ **D.D. Field**, *The Community...*, pp. 399–403; **D.D. Field**, *International Law and Peace*, in: **A.P. Sprague** (ed.), *Speeches, Arguments, and Miscellaneous Papers of David Dudley Field*, vol. 1, D. Appleton, New York 1884, pp. 534–541.

²⁶ **D.D. Field**, *Association for the Reform...*, pp. 3–12.

²⁷ **D.D. Field**, *Preface...*, pp. III–VI; **D.D. Field**, *Advantages of an International Code*, in: **A.P. Sprague** (ed.), *Speeches, Arguments, and Miscellaneous Papers of David Dudley Field*, vol. 1, D. Appleton, New York 1884, pp. 404–415.

3. Field's views on war: War as a limited but admissible instrument within the Community of Nations

David Dudley Field did not regard war as a normal or desirable condition of international life. On the contrary, he repeatedly described it as a source of devastation, moral injury, and political disorder. Yet this did not lead him to adopt an absolute pacifist position. His writings show a more complex view: war was not to be celebrated, but neither was it treated as intrinsically impermissible in every circumstance. Rather, he sought to confine its legitimacy within a legal framework and to reduce the occasions on which it might occur. In this respect, his reflections on war were closely tied to his broader belief that nations formed a community that was governed, or at least was capable of being governed, by common juridical principles.²⁸

This point is particularly clear in the part of his international code devoted to the preservation of peace. There Field did not begin from the premise that war must be prohibited absolutely and immediately. Instead, he attempted to construct a sequence of legal restraints designed to prevent states from resorting to force precipitately. A state that considered itself aggrieved was first required to give formal notice of complaint, specifying the grounds of dissatisfaction and the redress sought.²⁹ The state complained of was then obliged to provide a full and explicit answer within a fixed period.³⁰ If the disagreement could not be resolved in that way, the next step was the appointment of a Joint High Commission charged with discussing the differences and attempting reconciliation.³¹ Failing agreement at that stage, the dispute was to proceed to a High Tribunal of Arbitration, whose decision would be final and binding.³²

The structure of this scheme is highly significant for understanding Field's position. He clearly aimed to make war exceptional rather than ordinary. War was to become a last resort, preceded by complaint, response, negotiation, and arbitration. In other words, his ideal was not the complete abolition of coercion by moral appeal alone, but the juridification of interstate conflict through procedural discipline. Force was not to disappear from international life altogether, but to

²⁸ **D.D. Field**, *The Community*..., pp. 396–403.

²⁹ **D.D. Field**, *Outlines of an International Code*, 2nd ed., Baker, Voorhis & Co., New York; Trübner & Co., London 1876, pp. 369–370 (art. 532).

³⁰ *Ibidem*, pp. 369–370 (art. 533).

³¹ *Ibidem*, pp. 369–370 (art. 534).

³² *Ibidem*, pp. 370–371 (arts 535–536).

be subordinated to a prior legal order.³³ This already shows that Field's thought cannot be reduced either to unqualified militarism or to absolute pacifism. His project was instead one of legal containment.

At the same time, Field expressly recognized that coercive force could still be legitimate in certain circumstances. One such circumstance was self-defense. In the code provisions concerning the preservation of peace, he provided that a nation might call its militia into active service in order to enforce its laws, suppress insurrection, or repel invasion.³⁴ Even more significantly, a nation violating the peace-preserving provisions of the code by beginning war unlawfully was to be resisted by force by the other parties.³⁵ Thus, Field did not imagine peace as resting upon passive endurance in the face of aggression. He was willing to justify force when it served to repel invasion or to uphold the legal order against a state that had broken it.

This is consistent with the wider structure of his thought. Field conceived international society as a community of nations, not as a mere coexistence of isolated sovereigns. That conception has important consequences. If nations really formed a community, then the disturbance of peace by one state was not simply a bilateral matter between aggressor and victim. It implicated the wider order as such. The use of force in response to unlawful war could therefore be framed not simply as retaliation, but as collective resistance on behalf of the community and its norms.³⁶ In this sense, Field's acceptance of war in certain circumstances was inseparable from his understanding of international order: coercion became admissible when it functioned defensively, or when it answered a prior violation of the legal conditions of peace.

Another important dimension of his argument is that Field's preference for peace was not grounded merely in sentiment. He did not deny the horrors of war; indeed, he described them in severe terms, emphasizing not only physical destruction but also the moral degradation that war produced.³⁷ Yet his rejection of war as a general condition of international life did not lead him to deny the necessity of force in every case. The point, rather, was that force must not remain arbitrary. If war occurred outside the legal sequence of notice, response, conciliation, and arbitration, it appeared to him as a violation of order; if force

³³ *Ibidem*, pp. 369–371; **D.D. Field**, *International Law...*, pp. 534–541.

³⁴ **D.D. Field**, *Outlines...*, p. 369 (art. 531).

³⁵ *Ibidem*, p. 371 (art. 537).

³⁶ **D.D. Field**, *The Community...*, pp. 396–403; **D.D. Field**, *Outlines...*, p. 371 (art. 537).

³⁷ **D.D. Field**, *Outlines...*, pp. 371–373.

was used to repel invasion or to resist a state that had broken the peace, it could be understood as legally and morally justified.³⁸

At the same time, Field should not be treated as a systematic theorist of just war, as did not develop a fully systematic just war theory in the classical theological sense. His characteristic mode of thought remained juridical rather than scholastic. He was less concerned with elaborating a moral taxonomy of just causes than with embedding interstate conduct within a procedural and institutional framework. Nevertheless, the effect is similar in one crucial respect: he refused to treat all wars as equally legitimate or equally illegitimate. A distinction remained between unlawful recourse to war and force employed for defense or for the vindication of a common legal order.³⁹

This distinction becomes particularly important when his project is read in relation to his efforts toward codification. Field believed that the community of nations could become more peaceful only if it also became more legally organized. Arbitration, codification, and the recognition of common duties were therefore central to his program. Yet none of this excluded force in principle. Rather, they were designed to reduce the field within which force might lawfully operate. War was admissible only after the failure, or violation, of legal mechanisms intended to preserve peace, and it was especially justified where a nation acted to defend itself or where the wider community resisted an unlawful aggressor.⁴⁰

4. Field's views on war in the intellectual climate of the nineteenth century

David Dudley Field's reflections on war become more intelligible when placed within the moral and legal vocabulary of the nineteenth century. He did not write in an intellectual vacuum. The world in which he developed his ideas was one in which war was increasingly criticized, increasingly moralized, and increasingly subjected to legal thought, yet not generally rejected as impermissible. It was also a world in which jurists, reformers, military thinkers, and humanitarians often approached the problem of war from strikingly different angles. Some sought to discipline war through legal doctrine, some to humanize its effects, and others to imagine institutions that might reduce the frequency of armed conflict. Field's

³⁸ *Ibidem*, pp. 369–373; **D.D. Field**, *International Law...*, pp. 534–541.

³⁹ **D.D. Field**, *Outlines...*, pp. 369–371; **D.D. Field**, *International Law...*, pp. 534–541.

⁴⁰ **D.D. Field**, *Outlines...*, pp. 369–371; **D.D. Field**, *Association for the Reform...*, pp. 3–12.

contribution belongs most clearly to that last tendency, though it also intersects with the other two.⁴¹

In one important respect, Field still stood within an older juristic tradition represented by Henry Wheaton. Wheaton's "Elements of International Law" treated war as a juridically cognizable means by which nations might seek redress. War, in that framework, remained part of the architecture of the law of nations, even if it was not morally neutral.⁴² Field did not break decisively with that inheritance. He, too, accepted that war could still occur lawfully in certain circumstances, particularly where a nation defended itself or responded to a prior disturbance of peace.⁴³ Yet the difference between the two men is equally important. Wheaton described war within the inherited doctrinal structure of international law; Field, by contrast, tried to narrow its lawful space by placing before it a sequence of procedural restraints: formal complaint, answer, conciliation, and arbitration.⁴⁴ In that sense, Field did not abolish Wheaton's world, but he clearly attempted to make it more juridically demanding.

The affinity with Francis Lieber is perhaps even closer, though again it reveals both proximity and divergence. Lieber, especially as later interpreted in the literature on the laws of war, was no pacifist. He accepted the necessity of war in certain conditions and explicitly rejected the idea that moral seriousness required the repudiation of force as such.⁴⁵ At the same time, he was deeply committed to the proposition that warfare had to be restrained by meaningful rules. His was not a celebration of violence, but a jurisprudence of disciplined necessity. Field shared this refusal of absolute pacifism. He did not imagine that states could simply forswear force under all conditions. A nation, in his scheme, might legitimately repel invasion, suppress internal disorder, or join with others in resisting a state that had broken the peace-preserving obligations of the international order.⁴⁶ Yet where Lieber's principal concern lay in regulating the conduct of hostilities, Field's attention fell more strongly on the legal and institutional structure that ought to precede war. Lieber sought to humanize

⁴¹ **W. De Rycke**, *In Search of a Legal Conscience: Juridical Reformism in the Mid-19th Century Peace Movement*, *Studia Iuridica* 2019/80, pp. 355–374.

⁴² **H. Wheaton**, *Elements of International Law*, 8th ed., Little, Brown and Company, Boston 1866, pp. 404–405.

⁴³ **D.D. Field**, *Outlines...*, pp. 369–371.

⁴⁴ *Ibidem*, pp. 369–371.

⁴⁵ **P. Finkelman**, *Francis Lieber and the Modern Law of War*, *University of Chicago Law Review* 2013/80/4, pp. 2071–2132.

⁴⁶ *Ibidem*, pp. 2100–2101.

warfare once war had begun; Field sought, more characteristically, to delay it, condition it, and make its lawful use increasingly residual.⁴⁷

If one moves from jurists to humanitarians, the contrast becomes still more revealing. Henri Dunant's response to war was born out of the spectacle of suffering at Solferino. His intervention did not begin with a theory of when war might lawfully be waged, but with the intolerable fact of the wounded abandoned on the battlefield.⁴⁸ From that experience emerged two questions: whether voluntary relief societies might be formed in peacetime to aid the wounded in war, and whether an international convention might secure their recognition and protection.⁴⁹ Dunant's imagination was therefore not primarily directed toward the legality of war as such, but toward the organized mitigation of its human consequences. Florence Nightingale's experience of the Crimean War points in a similar direction. Her work exposed the catastrophic conditions under which soldiers died, often less from battle wounds than from preventable disease, administrative neglect, and the failures of military medical systems.⁵⁰ In her case, too, the central problem was not the formal admissibility of war in jurisprudential terms, but the urgent necessity of reforming the institutions that transformed war into a theatre of unnecessary suffering.⁵¹

Field also shared, with many nineteenth-century publicists, the civilizational assumptions of his era. Like other jurists writing in the second half of the century, he spoke in a way that linked the fullest development of international law to the society of Christian nations.⁵² In this respect, his thought stands closer to the mainstream of nineteenth-century legal consciousness than later generations have sometimes recognized. The law of nations was often imagined not as a wholly inclusive global order, but as an order growing out of European and Christian civilization. Yet even here Field's emphasis remained distinctive. The point of this civilizational language in his writings was not simply classificatory,

⁴⁷ **D.D. Field**, *Outlines...*, pp. 369–371.

⁴⁸ **D.D. Field**, *International Law...*, pp. 534–541; **P. Finkelman**, *Francis Lieber...*, pp. 2071–2132.

⁴⁹ **H. Dunant**, *A Memory of Solferino*, *International Committee of the Red Cross*, Geneva 1986, pp. 9–16.

⁵⁰ *Ibidem*, pp. 115, 126; **F. Bugnion**, *From Solferino to the Birth of Contemporary International Humanitarian Law*, *International Review of the Red Cross* 2009/91/874, pp. 221–226.

⁵¹ **E. Fee**, **M.E. Garofalo**, *Florence Nightingale and the Crimean War*, *American Journal of Public Health*, 2010/9/100, p. 1591; **L. McDonald**, *Florence Nightingale, Statistics and the Crimean War*, *Journal of the Royal Statistical Society: Series A* 2014/177/3, pp. 569–586.

⁵² **D.D. Field**, *Advantages...*, p. 415; **D.D. Field**, *Applicability of International Law to Oriental Nations*, in: **A.P. Sprague** (ed.), *Speeches, Arguments and Miscellaneous Papers of David Dudley Field*, vol. 1, D. Appleton, New York 1884, pp. 456–461.

as it sometimes was in more hierarchical theorists, but programmatic: it served to sustain the idea that a moral and legal community among nations already existed and could be made more explicit through codification.⁵³

For that reason, Field's views on war should be read as part of a specific nineteenth-century transition. The era had not yet renounced war outright, but it was no longer content to leave it in the realm of unstructured *raison d'état*. Between older doctrines that accepted war as a relatively ordinary sovereign remedy and later projects that would seek its general prohibition, Field represents an intermediate but highly revealing moment. He was one of those jurists who tried to move the international order away from habitual recourse to force without pretending that force could immediately disappear. His answer was not a theology of martyrdom, nor a humanitarian practice of battlefield relief, nor a mere restatement of inherited doctrine. It was the more austere, and perhaps more characteristically legal, hope that a codified community of nations might gradually force war into a narrower and more legally accountable corner of international life.⁵⁴

5. The influence of Field's Views on his era

The significance of David Dudley Field's international thought lies not only in the content of his proposals, but also in the way they entered and shaped the reformist legal imagination of the later nineteenth century. His influence on the era should not be measured by asking whether governments adopted his international code in formal terms. They did not. The more important question is whether his ideas helped to redefine the intellectual agenda of international legal reform. Viewed from that angle, Field's importance becomes much clearer. He helped to shift attention from the mere description of the law of nations toward the possibility of its deliberate reorganization, and he did so at a moment when jurists, peace advocates, and reform-minded publicists were increasingly dissatisfied with the looseness, uncertainty, and fragmentary character of international law.⁵⁵

The first sign of that influence can be seen in the unusually early and public character of his codifying initiative. In 1866, at the Manchester meeting of the British Association for the Promotion of Social Science, Field proposed the

⁵³ **K.R. Funk**, *Sect and Superstition: The Protestant Framework of American Codification*, *American Journal of Legal History* 2024/64/2, pp. 190–213.

⁵⁴ **W. De Rycke**, *In Search of...*, pp. 370–375; **D.D. Field**, *Outlines...*, pp. 369–373.

⁵⁵ **W. De Rycke**, *In Search of...*, pp. 355, 365–375.

appointment of a committee to prepare the outlines of an international code. This was not yet a diplomatic act, nor even a fully institutionalized legal program, but it was a significant public gesture. It suggested that international law might be treated not merely as a body of customs and precedents to be studied by learned jurists, but as something capable of being restated in systematic, *quasi-legislative* form.⁵⁶ Later observers of the codification movement recognized the significance of this step. Ernest Nys, writing in 1911, treated Field's Manchester proposal and the subsequent publication of the "Draft Outlines of an International Code" in 1872 as an important stage in the nineteenth-century movement toward the systematization of international rules.⁵⁷ Such retrospective recognition is itself telling: it indicates that Field had come to be regarded, not as an isolated eccentric, but as one of the figures who helped open a new horizon of possibility in international legal thought.

His influence became more substantial once his project circulated in print and entered transnational reform networks. The Draft Outlines of an International Code and the later Outlines of an International Code gave his proposals a form that could be discussed beyond the United States. Their translation and reception in European juristic circles show that Field was not merely a domestic reformer, but a participant in the broader nineteenth-century movement for the codification and institutionalization of international law. His role in the Institut du Droit International and the "Association for the Reform and Codification of the Law of Nations" likewise demonstrates that his influence was both textual and programmatic.

The reports of the early conferences of the Association confirm the extent to which Field's own priorities resonated within that milieu. The first and second conference reports linked codification with arbitration and treated the establishment of an international code as an object of "the highest interest and importance."⁵⁸ That formulation captures the intellectual atmosphere of the moment. Field's ideas did not stand outside the reformist movement; they helped define one of its central aspirations. The objective was not simply to praise peace in general terms, but to create the normative preconditions for peace through

⁵⁶ **H.W. Briggs**, *David Dudley Field and the Codification of International Law*, in: *Livre du Centenaire 1873–1973: Evolution et perspectives du droit international*, S. Karger, Basel 1973, pp. 67–73.

⁵⁷ **E. Nys**, *The Codification of International Law*, *American Journal of International Law* 1911/5/4, pp. 871–900.

⁵⁸ **International Law Association**, *Report of the First Conference Held at Brussels, 1873, and of the Second Conference Held at Geneva, 1874*, West, Newman & Co., London 1903, pp. 2–4.

a more precise statement of the rights and duties of states. This was a distinctly Fieldian move. His characteristic belief was that arbitration would not become genuinely effective without a prior clarification of the law to be applied.⁵⁹ In that sense, his thought influenced the age by hardening the language of peace reform.

The same point appears in the way later commentators located him within the genealogy of codification. Nys, in his celebrated survey of the codification of international law, placed Field alongside the major figures of the nineteenth-century codification movement and described the American effort of 1866–1872 as part of the “intense efforts” toward systematization in that period.⁶⁰ What is especially notable in Nys’s account is that Field appears there not simply as an American reformer, but as one among the pioneers of a broader international current. Nys also connected his initiative to the atmosphere that later favored the creation of both the Institute and the International Law Association.⁶¹ That retrospective framing matters because it shows that Field’s contemporaries and near-contemporaries understood his work as contributing to a shared European-American movement rather than as a merely local legal curiosity.

At the same time, Field’s influence had limits, and these limits are essential to understanding the precise nature of his impact. His international code did not become positive law. Nor did the Institute or the Association simply adopt his text as their authoritative blueprint. Briggs is explicit that Field’s codifying ambition often exceeded what more representative and cautious bodies were prepared to accept.⁶² His influence, therefore, was not the influence of a legislator whose text was enacted, but of a juristic entrepreneur whose proposals altered the terms of debate. He normalized the idea that international law could be written in code form. He reinforced the connection between codification and arbitration. He helped create institutions in which the progressive organization of international law could become a sustained professional and intellectual project.⁶³

This last point may be the most important. The influence of Field’s thought on his era was not primarily doctrinal in the narrow sense. It was architectural. He contributed to the intellectual infrastructure of a period increasingly drawn toward “peace through law.” He helped make it plausible that interstate conflict might be channeled through complaint, answer, conciliation, and arbitration, rather than

⁵⁹ **H.W. Briggs**, *David Dudley Field...*, pp. 67–73; **D.D. Field**, *Association for the Reform...*, pp. 3–12.

⁶⁰ **E. Nys**, *The Codification...*, pp. 886–890.

⁶¹ *Ibidem*, pp. 888–890.

⁶² **H.W. Briggs**, *David Dudley Field...*, pp. 70–71.

⁶³ *Ibidem*, pp. 67–73.

left to immediate recourse to force. He strengthened the belief that war should not simply be lamented after the fact but prevented by the prior articulation of legal rules. And he did so in a way that connected American reform energy with European institutional initiatives.⁶⁴

6. Conclusion

David Dudley Field's reflections on war and international order reveal a jurist who sought to bring one of the most unstable dimensions of political life within the reach of legal reason. He did not deny the reality of war, nor did he embrace an absolute pacifism that would have rendered all recourse to force illegitimate under any circumstances. Instead, he attempted to confine war within an increasingly restrictive legal framework, one in which peace would be preserved through complaint, response, conciliation, arbitration, and only ultimately, if all else failed, through justified resistance to aggression. In this respect, his thought belongs to a broader nineteenth-century movement that sought not simply to condemn war morally, but to discipline it juridically.

At the center of this project stood Field's idea of a "Community of Nations". This concept was not merely rhetorical. It expressed his conviction that states formed a wider moral and legal association and that their conduct could therefore be judged against common standards rather than left entirely to political expediency. At the same time, the concept bore the marks of its age. Field's understanding of international society was shaped by Christian and civilizational assumptions characteristic of nineteenth-century legal thought, and for that reason it cannot be treated as a fully universalist vision in the modern sense. Yet precisely this tension makes his work historically significant. It illustrates an important transitional moment in the development of international legal thought: a moment in which jurists increasingly sought to subordinate war to law but still did so within a framework marked by the cultural hierarchies of their time.

Field's importance lies, therefore, not in having produced a definitive or universally accepted solution to the problem of war. His significance lies rather in the way he connected codification, peace, and international society into a single jurisprudential project. He treated war not as a phenomenon beyond law, but as evidence of the insufficiency of legal organization among nations. By doing so, he contributed to a wider transformation in nineteenth-century legal

⁶⁴ X. Chen, *The Institutionalization of International Law at a Crossroads: Pacifists, Jurists and the Creation of the ILC and the IJL*, AJIL Unbound 2023/117, pp. 204–208.

imagination: the gradual shift from seeing war as a relatively ordinary incident of sovereignty toward understanding it as something that should be delayed, constrained, justified, and as far as possible, replaced by legal mechanisms of dispute settlement.

Seen from this perspective, Field appears as more than a domestic codifier who later turned to international law. He emerges as a jurist whose lifelong commitment to legal order found its final expression in the attempt to imagine an international society governed not merely by power, but by articulated norms. His thought did not abolish the nineteenth century's limitations, but it did help redefine the terms on which war, peace, and international legal community could be discussed. For that reason, his writings remain a revealing point of entry into the legal and moral imagination of his era.

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Michał ZAPAŁA

DAVID DUDLEY FIELD I JEGO TEORIA „WSPÓLNOTY NARODÓW” – JAK NALEŻY PROWADZIĆ WOJNĘ?

Abstrakt

Przedmiot badań: David Dudley Field jest powszechnie pamiętany jako jeden z czołowych XIX-wiecznych amerykańskich orędowników kodyfikacji i reformy proceduralnej. Jednak jego prace na temat prawa międzynarodowego ukazują szerszy projekt międzynarodowy, w którym porządkująca funkcja prawa rozszerzyła się z krajowych systemów prawnych na relacje między państwami. Jego koncepcja „Wspólnoty Narodów” wyrażała przekonanie, że społeczność międzynarodowa może być rozumiana jako stowarzyszenie moralno-prawne, choć wciąż kształtowana przez założenia chrześcijańskie i cywilizacyjne charakterystyczne dla jego epoki.

Cel badawczy: Artykuł analizuje poglądy Fielda na wojnę i porządek międzynarodowy w kontekście idei „Wspólnoty Narodów”. Jego głównym celem jest wykazanie, że Fielda nie należy interpretować ani jako absolutnego pacyfisty, ani jako myśliciela, który akceptował wojnę jako zwyczajny i nieograniczony instrument suwerenności. Artykuł dowodzi raczej, że dążył on do podporządkowania wojny restrykcyjnym ramom prawnym opartym na skargach, odpowiedzi, concyliacji, arbitrażu, a dopiero w ostateczności na uzasadnionym oporze wobec agresji.

Metoda badawcza: Artykuł wykorzystuje analizę historyczną i doktrynalną pism Fielda, zwłaszcza jego prac na temat kodyfikacji międzynarodowej oraz wybranych przemówień, zebranych w jego różnorodnych dokumentach. Umieszcza również jego argumenty w szerszym kontekście XIX w. poprzez porównanie ich z poglądami i inicjatywami takich postaci, jak Henry Wheaton, Francis Lieber, Henri Dunant i Florence Nightingale, a także z rozwojem projektów instytucjonalnych poświęconych reformie i kodyfikacji prawa międzynarodowego.

Wyniki: Znaczenie Fielda tkwi nie tylko w istocie jego propozycji, ale także w sposobie, w jaki połączył kodyfikację, pokój i społeczność międzynarodową w jeden projekt jurysprudencji. Jego myśl ilustruje moment przejściowy, w którym wojna była coraz częściej postrzegana nie jako normalny atrybut suwerenności, lecz jako zjawisko, które należy opóźniać, ograniczać, usprawiedliwiać i stopniowo zastępować prawnymi mechanizmami rozstrzygania sporów.

Słowa kluczowe: David Dudley Field, kodyfikacja prawa międzynarodowego, Wspólnota Narodów, prawo konfliktów zbrojnych, historia prawa międzynarodowego, międzynarodowe rozwiązywanie sporów.