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**Fallen through the cracks: the unrecognised
contribution of the LIA and its members to
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Fallen through the cracks: the unrecognised
contribution of the London International
Assembly and its members to the Human Rights
Movement

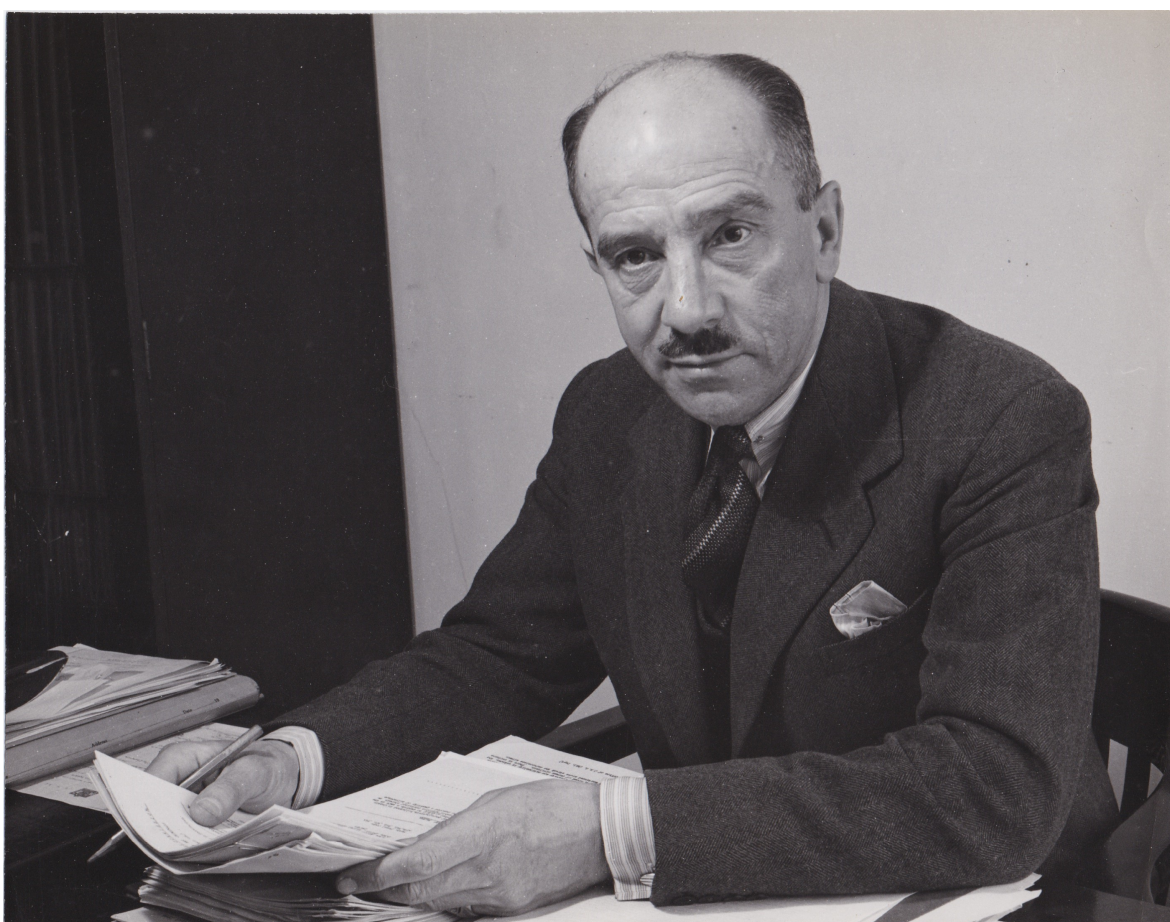


Image 1: Belgian General Marcel de Baer, Second Chairman of the London International Assembly, 1944, London, de Baer Archive, N.P.

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Abbreviations

CPRD - Commission for Penal Reconstruction and Development

LIA - London International Assembly

LNU - League of Nations Union

NT - Nuremberg Trails

TNA - The National Archives

UDHR - Universal Declaration of Human Rights

UN - United Nations

UNWCC - United Nations War Crimes Commission

WWII - World War II

Introduction

The London International Assembly was a semi-official body created in 1941 under the auspices of the League of Nations.¹ This 'international meeting' was made up of prominent jurists and exiled government officials from fourteen nations. Initially, it was place for government officials and scholars to meet once a month, to discuss post-World War II governmental policies.² Churchill tasked the Assembly³ to 'consider the principles of post-war policy and the application of those principles to the problems of national and international affairs.'⁴ During the interwar years, it grew increasingly official in character. The League of Nations infrastructure was transferred to the United Nations in this period, including the LIA.⁵ By 1944, the LIA was the 'forum for the United Nations,'⁶ and its membership had increased from fifteen to sixty-eight.⁷ The LIA planned for the future security of the 'fundamental freedoms' of man and world peace.⁸ Its extensive reports for reforms in international law were communicated to top officials of Allied governments.⁹ According to the United War Crimes

¹ M.C. Bassiouni, *Crimes Against Humanity in International Law*, (Martinus Nijhoff Publishers, 1999), p72.

²TNA: LNU, vol. 6/5 LIA General Committee First Meeting Minutes, 19/9/1941.

³ London, de Baer Archive, note attached to *The Punishment of War Criminals recommendations of the LIA*.

⁴ London, de Baer Archive, *Reports on the Punishment of War Crimes*, (LIA, 1943), p4.

⁵LSE Archives,

<http://archives.lse.ac.uk/Record.aspx?src=CalmView.Catalog&id=LNU>[accessed 7/04/2016].

⁶ LIA, *The Form and Function of the World Organization proposed by the LIA*, (Cockayne & Co, London, 1944), p3.

⁷TNA: LNU, vol. 6/5, LIA General Committee Minutes, 19/9/1941.

⁸ LIA, *The Form*, p1.

⁹ LIA, *The Form*, p3.

Commission, LIA members had 'important posts' and were 'in a position to speak authoritatively,' thus, discussions of the Assembly 'soon found an echo in legislative assemblies and government circles.'¹⁰ The UNWCC, created in 1943, was a United Nations commission that investigated allegations of war crimes committed by Nazi Germany and the other Axis powers in WWII.¹¹ Effectively, the LIA can be seen as the embryonic form of today's United Nations Forum, which discusses and makes recommendations for future UN socio-economic policies.¹²

Human Rights are moral principles protected as legal rights, in municipal and international law, formalised in 1948 by the Universal Declaration of Human Rights.¹³ The LIA's work on human rights preceded the UDHR, and has been overlooked by historians. Commission III defined basic human rights in the strictest legal sense. In February 1943, this work was formalised in a draft International Declaration of Human Rights, published in 1944 as *The Rights of Man*.¹⁴ Commission V and VIII planned for their universal application. All the Commissions of the Assembly created practical plans for a 'World Organisation', which included an international criminal court to enforce these rights. Historian

¹⁰ UNWCC, *History of the UNWCC*, (His Majesty's Stationary Office, 1948), p99, <http://www.cisd.soas.ac.uk/Files/docs/23225039-history-of-the-unwcc-chapter-5.pdf>[accessed 26/03/2016].

¹¹UNWCC Summary, <http://www.unwcc.org>[accessed 26/03/2016].

¹² United Nations Centre, *High-level UN forum on development cooperation paves way for 'leaving no one behind'*, <http://www.un.org/apps/news/story.asp?NewsID=53634#.VwplPsfA2cl>[accessed 26/03/2016].

¹³ J. Nicket, *Human Rights*, (Stanford University Press, 2003), <http://plato.stanford.edu/entries/rights-human/>[accessed 30/03/2016].

¹⁴TNA: LNU, vol. 6/7 LIA Commission III Report on Individual Rights, 23/2/1943.

Hannum views the adoption of the UDHR, by the United Nations, as the foundation of the post-WWII codification of human rights, serving 'as a midwife' for the subsequent international legal machinery to enforce human rights.¹⁵ However, this study demonstrates the LIA effectively pioneered the conceptual idea and practical theory of legally enforceable universal human rights in international law, before the UDHR.

The LIA began as an 'unofficial' body that represented the views of European Allies.¹⁶ However, over time the LIA increasingly defined the views of the European Allied governments. The LIA's work influenced the UDHR; its members were involved in the drafting process and the UN governments were aware of the LIA's work. Moreover, the LIA worked closely with the UNWCC. Gladstone argued the work of the UNWCC 'reinforced international standards of human rights.'¹⁷ Directly or indirectly, evidence suggests the LIA shaped the United Nations human rights movement. Furthermore, the LIA had a pivotal role in the creation and development of the Nuremberg Trials. The Trials were a series of international military tribunals held by Allied forces to prosecute WWII war criminals between 1945 and 1946.¹⁸ The Assembly made detailed plans for an international court to try war criminals. These plans shaped the Trials. The LIA's members were key advocates for the Trials, gaining political and public support.

¹⁵ H. Hannum, 'The Status of the UDHR in National and International Law,' *Georgia Journal of International and Comparative Law* 25, nos. 1-2 (1995/1996), p289, <http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1396&context=gjicl>[accessed 15/4/2016].

¹⁶ Bassiouni, *Crimes Against*, p72.

¹⁷ R. Gladstone, *UNWCC Synopsium*, <http://www.unwcc.org/wp-content/uploads/2014/11/Goldstone-Foreword.pdf>[accessed 26/03/2016].

¹⁸ R.E. Conot, *Justice at Nuremberg*, (Carroll & Graf, 1984), pp1-10.

Some actively participated in the NT by aiding the prosecutions. Historian Cogan argues the legacy of the NT is the criminal sanctions for gross human rights violations, in the subsequent international human rights regime.¹⁹ Within the limits of this study, the extent of the LIA's impact on the human rights movement is hard to gauge. Nonetheless, the evidence supports my thesis that the LIA did make important contributions to the post-WWII human rights movement, unrecognised in current historiography.

Historiography on the LIA is limited, restricting the depth of my analysis. However, this allowed me to create the first overarching study of its work and influences. No historian has studied the human rights work of the Assembly, especially Commission III, and its influence on the UN human rights movement. Recently, Von Lingen pioneered new research into the LIA. One study highlights the importance of the LIA and the Commission for Penal Reconstruction and Development in setting the path for the UNWCC.²⁰ The other study, *Crimes against Humanity*, includes the LIA's contribution to widening the judicial scope of war crimes.²¹ Her research has been useful regarding the LIA's impact on the

¹⁹ M.H. Arsanjani and J.Cogan, *Looking to the Future: Essays on International Law in Honor of W. Michael Reisman*, (BRILL, 2010), p52.

²⁰ K.V. Lingen, Setting the Path for the UNWCC: The Representation of European Exile Governments on the London International Assembly and the Commission for Penal Reconstruction and Development, 1941–1944, *Criminal Law Forum*, Volume 25, Issue 1, (2014), pp45-76
<<http://link.springer.com/article/10.1007%2Fs10609-014-9229-9>>[accessed 15/4/2016].

²¹ K.V. Lingen, Defining Crimes Against Humanity: The Contribution of the United Nations War Crimes Commission to International Criminal Law, 1944-1947, *Forum for International Criminal and Humanitarian Law's Historical Origins of International Criminal Law*, Vol. 1, (2014),
<http://www.cisd.soas.ac.uk/Files/docs/26038760-von-lingen-fichl.pdf>[accessed 25/3/2016].

NT. However, its utility is limited by the narrow focus on the LIA's war crimes debates. Law historians such as Boot²² and Zeidy touch on the importance of the LIA as initiating the preliminary steps towards codified international humanitarian law and an international criminal court.²³ Takemura²⁴ and Goldman allude to the LIA's importance in development of the NT, through its direct influence on the Nuremberg Charter and indirectly through the UNWCC.²⁵ The work of the LIA is often footnoted in law books on the development of international criminal law. Comparing the lack of historiography, with the evidence from the LIA, supports my hypothesis that the humanitarian work of the LIA as gone unnoticed.

Previously unseen sources from the family archive of Belgian jurist General Marcel de Baer reveal the LIA's humanitarian work. De Baer was the second Chairman of the LIA and a key member of the UNWCC. The LIA reports illustrate the breadth and depth of its humanitarian work. The archival newspaper cuttings establish its importance in the public sphere. De Baer's military and diplomatic correspondences show the Assembly members were communicating and advising high-level government officials. This archival evidence provides a greater insight into the wider significance of the LIA. The recent opening of the UNWCC archive led to increased interest in the LIA, as the sources directly

²² M. Boot, *Genocide, Crimes Against Humanity, War Crimes*, (Intersentia nv, 2002), p180.

²³ M.M.E. Zeidy, *The Principle of Complementarity in International Criminal Law: Origin, Development and Practice*, (BRILL, 2008), p59.

²⁴ H. Takemura, *International Human Right to Conscientious Objection to Military Service and Individual Duties to Disobey Manifestly Illegal Orders*, (Springer Science & Business Media, 2008), p142.

²⁵ G.K. MacDonald and O.Q. Swaak-Goldman, *Substantive and Procedural Aspects of International Criminal Law*, (BRILL, 2000), p279.

reference the importance of the LIA's work. The UN's archive on the drafting process of the UDHR does not directly reference the LIA. However, it was a good source to investigate the roles of the LIA members. The minutes of LIA meetings are available at the League of Nations Union archive, but have escaped historical attention. These helped to contextualise LIA reports, and indicate how important the LIA members viewed their own work. While these new sources provide rich evidence, this study is limited by the bias of some sources and the lack of references to the LIA by external bodies.

The sources allude to why the work of the LIA has been previously overlooked. The UNWCC source notes 'the proceedings of the Assembly were kept strictly secret', and 'except for one or two occasions, no word was published about them in the press.'²⁶ While my research suggests the LIA was mentioned frequently in the press, its proposals only appeared publically when the Assembly wanted to gain public support. On the whole, their work did not appear in the public sphere, as much of it was politically, diplomatically and militarily sensitive. De Baer's letters and documents are often classified as restricted or secret. Moreover, in 1943, the LIA General Purpose Commission discussed changing its name to the 'Forum for the Discussions of the United Nations', but decided against it.²⁷ Research into the history of the UN is still relatively new. Historians may have overlooked the LIA, as it was never officially part of the UN infrastructure. Furthermore, at the London Conference in 1945, it appears Justice Jackson, Truman's choice of US judge at the NT, orchestrated the US into

²⁶ UNWCC, *History of the UNWCC*, pp99-104.

²⁷ TNA: LNU, vol. 6/7, LIA General Purpose Committee Minutes, 20/9/1943.

being the lead planner of the Trials. De Baer emphasizes the plans of the LIA and UNWCC were only 'finished off' by Jackson.²⁸ While the sources may be biased, it is reasonable to conclude the enormous political force of the US in the NT may have overshadowed the work of the LIA and its members. Thus, the previously unseen sources, the secrecy, and the LIA's overlooked contribution to the NT are all plausible reasons as to why its important work has, until now, been forgotten.

To better establish the human rights work of the LIA in historiographical discourse, this thesis will address the LIA's role in the post-WWII human rights movement. Chapter One will review how the LIA contributed to the conceptual, theoretical and practical idea of human rights. Chapter Two will address how influential the LIA and its members were in the United Nations human rights movement. Chapter Three will assess how significant the LIA and its members were in the creation and development of the Nuremberg Trails. Overall, this thesis will conclude the human rights work of the LIA and its members has gone unrecognised in human rights historiography.

Chapter 1

While the war was still at a critical phase, the British government was considering a post-war diplomatic and legal order, to protect the future 'freedom, happiness and security of all people.'²⁹ As part of these plans, this chapter will explore how the LIA developed the conceptual, theoretical and

²⁸ Letter from General de Baer to the Minister of Foreign Affairs and overseas Commerce in Brussels, UNWCC 662/W.C, 11/7/1945.

²⁹ TNA: LNU, vol. 6/5, LIA General Committee Minutes, 19/9/1941.

practical idea of universal human rights. Historians of human rights law suggest there was a change in attitude of the international community towards human rights, after WWII, signalled by the adoption of the UDHR in 1948.³⁰ This study will show the LIA, during the interwar years, initiated this change regarding legally protected universal human rights.

Before WWII, there were a limited number of precursor declarations of human rights. However, the UDHR did have antecedents in international humanitarian law. For example, the 1907 Hague Peace Conference codified the duties of states to protect individual rights and respect human life, at times of martial law.³¹ Historian Normand argues human rights were not a common topic of international legal, political or military conversation until the 1940's.³² The UDHR Drafting Committee referenced eighteen declarations, and of these only two were made before WWII. These were *The International Rights of the Individual and of International Associations* from the American Institute of International Law (Havana, 1917) and *The Declaration of the Rights of Man* from the Institute de Droit International (29th October 1921).³³ Queeney identifies the closest 'precursor' to the UDHR as the adoption of the Atlantic Charter in 1942 by the twenty-six Allied nations. The Atlantic Charter defined the Allied goals for the post-war world. This included the Four Freedoms (freedom of speech,

³⁰ H. Koh, 'How is International Human Rights Law Enforced?', *Indiana Law Journal*, Vol. 74 (3), (1999), pp1397-1417, <http://www.repository.law.indiana.edu/ilj/vol74/iss4/9/> [accessed 18/04/2016].

³¹ L.G. Loucadies, *The European Convention on Human Rights: Collected Essays*, (Martinus Nijhoff Publishers, 2007), p123.

³² R. Normand, and S. Zaidi, *Human Rights at the UN*, p42.

³³ UN: E/CN.4/W.16, 23/1/1947.

freedom of religion, freedom from fear and freedom from want). The Charter 'reaffirmed faith in fundamental human rights', but did not establish what these rights were, or how to protect them.³⁴ Churchill's European Imperialism interests dictated that these freedoms did not extend to 'non-white races.'³⁵ Overall, there were limited antecedents for the UDHR. The lack of precursor declarations illustrates the progressive nature of the LIA's work.

The unfolding atrocities of WWII highlighted both an acute need and public demand to formalise human rights.³⁶ General de Baer wrote 'what revolted mankind was his [Hitler's] cynical extermination of innocent Jews.' The LIA was working in parallel with distinguished Polish-Jewish jurist Raphael Lemkin, who was attempting to introduce legal safeguards for ethnic, religious, and social groups at international forums, but without success. Lemkin coined the term 'genocide' in 1944.³⁷ The LIA felt a moral imperative to secure justice for the 'aggression, unnecessary massacres and cruelties' of WWII, by punishing those responsible for the 'conspiracy to commit these acts and co-operation in their execution.'³⁸ In June 1942, first Chairman Viscount Cecil resolved the LIA's study and practical planning of the peace process would 'save the world from a

³⁴ K.N. Queeny, *Direct Broadcast Satellites and the United Nations*, (BRILL, 1978), p15.

³⁵ E.F. Frazier, and E. Williams, *The Economic Future of the Caribbean*, (The Majority Press, 1943), xx.

³⁶ A. Mittal and P. Rosset, *America Needs Human Rights*, (Food First Books, 1999), p167.

³⁷ R. Lemkin, *Lemkin on Genocide*, ed. by S.L. Jacobs, (Lexington Books, 2012), pvii.

³⁸ London, de Baer Archive, letter attached to *Reports on The Punishment of War Crimes*, 1943.

repetition of the horrors of the past four years.³⁹ LIA member, Rene Cassin, spoke at the December 1948 UDHR Drafting Committee, stating, “the last war had taken on a character of a crusade for human rights.” Cassin received the Nobel Peace Prize in 1968 for his work in drafting the Universal Declaration of Human Rights.⁴⁰ In summary, the members of the LIA were leading figures in the response to the WWII human rights atrocities, demanding both retribution and prevention of future abuse.

After World War I, there was no international criminal law reform to prevent the atrocities of WWII. In 1941, Noel-Baker stated it was the ‘failure of the League of Nations, the Atlantic Charter and the post-WWII disarmament’ that accounted ‘for all the sufferings of the nations present.’⁴¹ To remedy these failures, Boot suggests the LIA was a forerunner in the international discourse addressing the ‘problem of the lack of codified substantive international criminal law.’⁴² The LIA created Commission III in 1941 to study the ‘future security against war’, including long term-measures for maintaining world security and defence against aggression.⁴³ As ‘law remains the basis of civilisation’, the Commission studied the question of ‘the protection of certain fundamental human rights’ from a ‘strictly legal standpoint.’ Their aim was to create ‘various maxims as positive legal principles’, in other words, so the rights of individuals could be legally codified, and if breached, punishable through ‘justice and reciprocal

³⁹ TNA: LNU, vol. 5/75 LIA General Meeting Minutes, 18/6/1942.

⁴⁰ Cassin cited in J. Morsink, UDHR, p37.

⁴¹ TNA: LNU, vol. 5/75 LIA First General Meeting Minutes, 19/9/1941.

⁴² Boot, *Genocide, Crimes*, p180.

⁴³ TNA: LNU, vol. 5/75 LIA Preparatory Committee and General Purposes Committee Meeting Minutes, 20/09/1941.

equity.⁴⁴ Historian Alston explores smaller national political groups, such as the American International Labour Office, which created initiatives and oversaw treaties addressing some countries concern for individual welfare, before WWII.⁴⁵ The LIA raised this concern on an international political level, pioneering a worldwide revolution of thought that advocated a global civil society to defend human rights, and for the creation of transnational legal measures to ensure their preservation.⁴⁶

The LIA responded to the moral outrage at the human rights atrocities of WWII, and legal need for the formalisation of individual rights in international law, by creating its own declaration of human rights in 1943. The Commission limited the 'principles concerning the protection of the individual' to 'such fundamental nature', that 'every civilised State wishes and must respect them in so far as it wishes to be recognised as a civilised state.' The Commission defined a list of the 'basic minimum' of human rights. The principles were 'stated in precise legal terms' to ensure they were 'capable of enforcement.' On 23rd February 1943, Professor Goodhart submitted a draft declaration to the LIA.⁴⁷ LIA member Arthur Lehman Goodhart was a distinguished lawyer and the Chair of Jurisprudence at Oxford University.⁴⁸ It was part of the 'consolidation of the

⁴⁴ TNA: LNU, vol. 6/7 LIA Commission III Report, 23/2/1943.

⁴⁵ P. Alston and R. Goodman, *International Human Rights*, (OUP Oxford, 2012), pp136-137.

⁴⁶ G. Gunn, *Ideas to Die For: The Cosmopolitan Challenge*, (Routledge, 2013), p53.

⁴⁷ Cassin cited in J. Morsink, *The Universal Declaration of Human Rights*, (University of Pennsylvania Press, 2010), p34.

⁴⁸ R. Burchnall, *Catalogue of the papers of Arthur Lehman Goodhart (1891-1978)*, (1993)

<http://www.bodley.ox.ac.uk/dept/scwmss/wmss/online/modern/goodhart/goodhart.html>[accessed 17 April 2016].

principles of international law accepted in the last 25 years or formulated in the Atlantic Charter' specifically regarding 'individual rights.' This draft contained 'definite principles which must be recognised and enforced by every civilised State'. Their precise legal nature meant they could be enforceable by national and international courts, provided the courts 'were given necessary powers.'⁴⁹ According to the LIA, 'no such step had been taken' to reform international criminal law in such a way.⁵⁰ The UN Drafting Committee references three international bills of Rights drafted between 1941-1943 in America, one of which was submitted by the Law School of Southwestern University.⁵¹ There is no comparable legally enforceable international statement of human rights made in the United Kingdom, before 1943. While the US had taken the first steps towards codifying human rights, evidence suggests the LIA initiated the British movement to codify human rights in international criminal law during WWII.

The LIA addressed the need for 'universal' human rights. In the post Napoleonic era Tsar Alexander I made various declarations containing utopian idealism, calling for an international organisation to prevent war and protect the rights of people and nations. However it must be noted the Tsar was responsible for bloodily suppressing the Poles.⁵² The LIA moved beyond empty idealism. In 1943, Commissions V and VIII held joint discussions on universal human rights. The Commissions were aware of the judicial problems of an international law

⁴⁹ TNA: LNU, vol. 6/7 LIA Third Commission, 23/2/1943.

⁵⁰ TNA: LNU, vol. 6/7 LIA Third Commission, 23/2/1943.

⁵¹ UN: E/CN.4/W.16, 23/1/1947, p9.

⁵² A. Zamoyski, *The Phantom Terror*, (Basic Books, 2015), p15.

applying universal human rights to every nation.⁵³ Despite this, the LIA Report on the *Form and Function of the World Organization* concludes ‘universal’ membership was necessary, so all nations could play a part in developing ‘some rules whose validity could not be challenged by anyone.’ This included ‘the regulation of the rights of the individuals.’ The Report emphasizes this international World Organization should ‘establish the rules of universal and international law which all nations would be expected to observe.’⁵⁴ Morsink suggests that the UN Economic and Social Council, one of the principal policy-making organs of the United Nations, was the first official body to make practical plans for universal human rights in 1946.⁵⁵ Stamos argues legally enforceable, universal human rights had not been considered on an international political level until after WWII.⁵⁶ However, my research shows, as early as 1943, the increasingly official LIA had begun drafting reports for legally enforceable ‘universal’ human rights, to be enshrined in international law.

LIA Minutes suggest the Assembly viewed immediate legislation for Goodhart’s draft declaration of individual rights as highly important, to fill the void in international humanitarian law.⁵⁷ It was published as *The Rights of Man* in 1944. However, the document was not included as one of the ‘eighteen draft International Bill of Rights’ in a memorandum by the Division of Human Rights from 23rd January 1947. It did include *The Declaration of the Rights of Man* by

⁵³ TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 15/12/1943.

⁵⁴ LIA, *The Form and Function*, p7.

⁵⁵ Morsink, *UDHR*, p34.

⁵⁶ D.N. Stamos, *Myth of Universal Human Rights: Its Origin, History, and Explanation, Along with a More Humane Way*, (Routledge, 2015), p48.

⁵⁷ TNA: LNU, vol. 6/7, LIA General Purpose Committee Minutes, 20/9/1943.

H.G. Wells (1940) and *An International Bill of Rights* by Reverend Wilfred Parsons (14th April 1941), amongst others.⁵⁸ The Nuclear Committee (29 April - 21 May 1946) used these drafts as references for the first draft of the UDHR. Hunt suggests the human rights programme of the United Nations represented a tremendous collective effort.⁵⁹ John P. Humphrey, Director of the Secretariat's Division on Human Rights, wrote the first draft declaration, and 'freely and frequently' borrowed from the drafts, especially Hersch Lauterpachts draft.⁶⁰ At the time, the human rights work of the LIA was innovative, as the European international humanitarian law reform was in its infancy.⁶¹ Despite this, the LIA's work goes unreferenced by the United Nations Drafting Committee. The Committee used eighteen drafts, from different nations, with no mention of the LIA. This suggests its work may not have been as significant as it appears, especially across the Atlantic.

Nonetheless, this chapter identifies the LIA as a forerunner in the conceptual, theoretical and practical idea of formalised, legally binding universal human rights. The work of Commission III developed the conceptual idea of basic human rights within legal parameters. Commission V and VIII studied universally applicable, nationally and internationally, human rights. The LIA reports from these Commissions envisaged a World Organisation, which included an international criminal justice system to enforce universal individual rights.

⁵⁸ UN: E/CN.4/W.16, 23/1/1947.

⁵⁹ L. Hunt, *Inventing Human Rights: A History*, (Norton, 2008), p203.

⁶⁰ Morsink, *UDHR*, p8.

⁶¹ D.S. Weissbrodt and C.D.L. Vega, *International Human Rights Law: An Introduction*, (University of Pennsylvania Press, 2007), p21.

Chapter 2

Having assessed the ways in which the LIA pioneered conceptual, theoretical and practical ideas of human rights in Britain, this section will analyse the impact of the LIA's work on the human rights movement of the United Nations. This chapter will explore how LIA and its members influenced the 1948 UDHR, the reform of UN international humanitarian law and the humanitarian work of the UNWCC. This chapter will demonstrate the LIA, as a semi-official UN advisory body, shaped the post-WWII wider human rights movement.

A direct literary parallel between *The Rights of Man* and the UDHR suggests the LIA influenced the content of the UDHR. Goodharts' ten principles have direct counterparts in the UDHR. The majority are written with the same or extremely similar phrasing and terminology. For example, Principle 1 states that 'the state shall protect the life and liberty of every person'⁶² and the UDHR preamble states that 'every one has the right to life, liberty and security of person.'⁶³ Principle VII⁶⁴ and Article 1 state the necessity for everyone to deserve equal protection of their human rights.⁶⁵ Principle IV⁶⁶ and Article 2 emphasizes all persons are 'entitled' to free exercise of religion, of any belief and creed. Both documents are founded on the same philosophy that these rights should be applied to all individuals, universally, regardless of nation. The UDHR preamble states the aim

⁶² TNA: LNU, vol. 6/7, LIA Commission III Report, 23/2/1943.

⁶³ E. Roosevelt, *Universal Declaration of Human Rights*, (United Nations, 2015), p1, http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf [accessed 14/4/2016].

⁶⁴ TNA: LNU, vol. 6/7, LIA Commission III Report, 23/2/1943.

⁶⁵ Roosevelt, *UDHR*, p4.

⁶⁶ TNA: LNU, vol. 6/7, LIA Commission III Report, 23/2/1943.

is to gain 'respect for and observance of human rights and fundamental freedoms,' to 'secure their universal and effective recognition' as 'human rights should be protected by law.'⁶⁷ The direct literal parallels, as well as the limited legal and theoretical antecedents of the UDHR, infers the LIA's work may have been influential in the UDHR's creation and content.

This hypothesis is supported by the LIA member's involvement in drafting the UDHR. Vrdolajak identifies international lawyer Professor Hersch Lauterpacht as key to the creation and adoption of the UDHR.⁶⁸ Von Lingen identifies Lauterpacht as a prominent and active member of the LIA.⁶⁹ As a reputable member and jurist, he would have been aware of the important LIA debates surrounding the establishment of *The Rights of Man* in international humanitarian law. The international humanitarian reforms were in the report *Form and Function of the World Organisation*, which was 'presented for ratification to the full Assembly.'⁷⁰ Lauterpacht submitted his own draft declaration of human rights to the UDHR drafting committee, called *An International Bill of the Rights of Man* (1945). It is highly likely the LIA's work influenced this draft. His draft was included as one of the eighteen draft international bill of Human Rights used in the first draft of the UDHR.⁷¹ The Lauterpacht draft was influential in the John Humphreys first draft of the UDHR,

⁶⁷ Roosevelt, *UDHR*, pp2-6.

⁶⁸ A.F. Vrdolajak, 'Human Rights and Genocide: The Work of Lauterpacht and Lemkin in Modern International Law', *European Journal of International Law*, 2008, <http://www.ejil.org/pdfs/20/4/1940.pdf> [accessed 25/3/2016].

⁶⁹ Lingen, *Defining Crimes*, p488.

⁷⁰ LIA, *The Form and Function*, p2.

⁷¹ UN: E/CN.4/W.16, 23/1/1947.

as Humphrey's took whole articles from Lauterpacht.⁷² Despite the lack of direct evidence, circumstantial evidence suggests that the valuable work of the LIA influenced Lauterpacht's draft declaration. Furthermore, Lauterpacht's direct involvement strongly supports my hypothesis that the humanitarian work of the LIA and its members has gone unrecognised.

As well as Lauterpacht, LIA members Rene Cassin and Egon Schwelb were part of the United Nations drafting process of the UDHR. Their opinions, educated by their experience in the LIA, further influenced the content of the UDHR. Cassin was a key advisory member of the LIA, according to Sellars.⁷³ He was also an influential figure in the drafting process. In 1947, Cassin redrafted Humphrey's first draft, and added 3 articles of his own.⁷⁴ Hobbins points out, although he may have overstated his role as having the 'sole responsibility' for the second draft, he won the Nobel peace prize for his extensive role in the drafting process.⁷⁵ Moreover, Von Lingen identifies LIA member and lawyer Egon Schwelb as an important 'transnational legal actor.' He was appointed as the deputy director of the Human Rights Commission in 1945. His nickname was "Mr Human Rights" due to his active participation in modernising international humanitarian law.⁷⁶ This evidence further supports my argument that the LIA members were instrumental in the creation of the UDHR. Moreover, later evidence suggests the

⁷² Morsink, *UDHR*, p8.

⁷³ K. Sellars, *'Crimes against Peace' and International Law*, (Cambridge University Press, 2013), p53.

⁷⁴ UN: E/CN.4/AC.4/1/6/Add.1/, 6/12/1947, p1.

⁷⁵ A.J. Hobbins, *Rene Cassin and the Daughter of Time: The First Draft of the Universal Declaration of Human Rights*, (McGill University Library Publications, 1989).

⁷⁶ Lingen, *Defining Crimes*, p486.

previous humanitarian work of the LIA did inform LIA members' decision-making, including Lautherpacht, Cassin and Schwelb.

Unquestionably LIA members influenced the formation of the UDHR. On top of this, evidence suggests the LIA reports influenced the wider UN human rights movement during the interwar years. The 1943 minutes show the Assembly concluded all Allied governments should be sent a copy of Goodhart's international human rights draft declaration. Each national government was asked to state, in writing, if they agreed 'the legal rights of the individual set out in the report' were 'rights which it would wish to see accorded by all states to their citizens.' LIA member Rolin highlights the draft was of importance to government policy makers, as it was 'useful guidance for the framing of any regulations for the protection of minorities with which the defeated Axis Powers might be asked to conform.'⁷⁷ *The Punishment of War Crimes* pamphlet identifies fifteen reports that had been communicated to the governments of the United Kingdom, America, and the other United Nations. This included the work of Commission III (Rights of the Individual) and Commission V and VIII (Commission on 'Universality') in the *Future Security and International Force* report.⁷⁸ Thus, the evidence infers the LIA was influential in government circles, and may have prompted the Allied governments into taking the crucial first steps towards the legislation of human rights and modernisation of international humanitarian law.

⁷⁷ TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 29/09/1943.

⁷⁸ LIA, *The Form and Function*, p2.

The LIA was a politically and diplomatically influential body. Bassiouni describes the LIA as an 'unofficial body' representing the 'views of the European Allies.'⁷⁹ I believe Bassiouni undervalues the importance of the LIA, which increasingly shaped the views of European Allies during WWII. De Baer regales being summoned by Lord Vansittart, Chief Diplomatic Advisor, to Denham to discuss Foreign Secretary's Sir Anthony Eden's views on the difficulties of punishing war criminals in 1942. The archives contain extensive diplomatic and military letter collections, documenting the discussions between De Baer and prominent European political figures, such as Belgian Prime Minister Hubert Pierlot.⁸⁰ A 1948 UN report described the role of the LIA as making 'recommendations, through its members' to governments.⁸¹ The United Kingdom submitted a draft declaration of human rights to the UDHR Drafting Committee in 1947, which influenced the content of the second draft of the UDHR.⁸² The LIA's increasingly official advisory role in Allied governments, especially in the British government, suggests its work influenced the United Kingdom's draft declaration. However, the lack of external sources referencing the LIA, limits this study's ability to determine the extent of the LIA's overall influence on international humanitarian policies. None the less, governments did take the LIA recommendations into

⁷⁹ Bassiouni, *Crimes*, p72.

⁸⁰ London, de Baer Archive, Diplomatic and Military Correspondence of General M. de Baer, N.P.

⁸¹ UN: A/CN.4/Rev.1, *Historical Survey of the Question of International Criminal Jurisdiction – Memorandum submitted by the Secretary-General*, (United Nations, 1949), p18,

http://legal.un.org/ilc/documentation/english/a_cn4_7_rev1.pdf[accessed 26/03/2016].

⁸² Morsink, *UDHR*, p48.

account, which supports this studies argument that the LIA discussions were echoed in legislative assemblies and government circles.⁸³

The LIA's work was widely known and respected in the public sphere. Newspaper cuttings acknowledge the importance of the LIA work on an international scale. From 1942, the LIA is referenced in over thirty newspaper articles, from across Europe and America, until 1948.⁸⁴ The LIA used its public exposure to gain recognition for the policies it advocated. For example, in the 1943 Minutes, Lord Lytton suggested the best way to get their policies legislated for, was 'to secure public support for their general enforcement.' The Committee resolved to gain 'general acceptance of an International Court' which could 'enforce an international code embodying the rights of individuals within the separate states.'⁸⁵ In 1943, the General Purpose Committee noted the LIA's 'existence and work have become well known to many of the governments and to important sections of the public.' The League of Nations bought two thousand copies of the LIA Report on 'Freedom from Want, Freedom for All' in December 1943, which suggests the LIA's reports were well known and authoritative.⁸⁶ Takemura proposes the LIA took a position similar to the 1919 Commission on Responsibilities, studying the background and advising on the penalties of WWI war crimes, though in greater detail.⁸⁷ This is true. However, as well as studying international criminal law, the LIA created solutions, and its members were

⁸³ UNWCC, *History of the UNWCC*, p99.

⁸⁴ London, de Baer Archive, Newspaper Cuttings, N.P.

⁸⁵ TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 29/09/1943.

⁸⁶ TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 15/12/1943.

⁸⁷ Takemura, *International Human Rights*, p142.

proactive in getting its international humanitarian policies recognised in the political and public sphere.

The work of the LIA and its members was more influential in the UN human rights movement than current historiography recognises. However, there were many other influential bodies involved in the drafting process of the UDHR between 1946 and 1948.⁸⁸ After the second draft, 'all the revisions, both deletions and additions, were never again associated with one person or country.'⁸⁹ The Second Commission broadened its inputs, to include numerous non-governmental organizations, such as the International Committee of the Red Cross and the World Federation of the United Nations Associations. To ensure the 'universality' of the document, eighteen nations were represented on the Commission of Human Rights and eight nations were represented on its subsidiary Committee. Furthermore, the Human Rights Commission made provisions for unrepresented nations by continuously taking into account their draft submissions and amendments. The Second Session produced the 'Geneva draft.'⁹⁰ The Third (Social and Humanitarian) Committee of the General Assembly finalised the last draft UDHR. Cassin hoped this was an "expression of the rights of all the peoples of the world and not only the fifty-eight nations then constituting the United Nations."⁹¹ Thus, the drafting process of the UDHR was

⁸⁸ UN: E/CN.4/W.16, 23/1/1947.

⁸⁹ Morsink, *UDHR*, p8.

⁹⁰ UN: E/CN.4/AC.1/SR.44, 44th Meeting, 14/05/1948, http://www.un.org/en/ga/search/view_doc.asp?symbol=E/CN.4/AC.1/SR.44[accessed 26/03/2016].

⁹¹ UN: E/SR.218, 218th Meeting, held on Thursday, 26/08/1948, http://www.un.org/en/ga/search/view_doc.asp?symbol=E/SR.218[accessed 26/03/2016].

made up of complex interactions between nations, and various official and non-official bodies. While this study shows that the LIA was more influential than historiography recognises, it was just one strand in the myriad of influences, which created the UDHR.

The LIA is not recognised in the UN's documentation of the drafting process of the UDHR. However, the influence of the LIA in the human rights efforts of United Nations War Crimes Commission is more apparent. Gladstone persuasively argues the UNWCC 'reinforced international standards of human rights' by assisting national governments in their prosecutions of war criminals.⁹² Six members of the LIA were members of the UNWCC. This ensured the LIA recommendations were made 'available for the official bodies.'⁹³ The UNWCC and LIA worked together, in London, on over thirty thousand international criminal cases, on behalf of seventeen nations.⁹⁴ The 1948 *History of the UNWCC* documents that the LIA's members brought to deliberations 'the value of their experience' in the LIA, especially from its 'study of the question of war crimes.' The UNWCC used the LIA work to formulate its own international justice initiative. For example, the *History* references many LIA recommendations, such as the definition of War Crimes, the responsibility of the state, the prosecution of high officials and key men and plans for an international criminal court.⁹⁵ The evidence concurs with Von Lingen's argument that the LIA

⁹² Gladstone, *UNWCC Synopsium*, p3.

⁹³ LIA, *The Form and Function*, p2.

⁹⁴ Gladstone, *UNWCC Synopsium*, p3.

⁹⁵ UNWCC, *History of the UNWCC*, pp99-104.

and its members set the path for the UNWCC.⁹⁶ Ellis argues the work of the LIA, through the UNWCC, played 'an antecedent role' in the creation 1998 Rome statute, a treaty that established the creation of the current International Criminal Court and International Law Commission.⁹⁷ However, the *History* does acknowledge that 'it is difficult to gauge the value of the work of the LIA.'⁹⁸ Nonetheless, the LIA, with the UNWCC, helped to develop and enforce international humanitarian law. Furthermore, this evidence demonstrates the contemporary relevance of the LIA to the current international criminal justice system.

This chapter has established that the LIA and its members were influential in the UN human rights movement. My research provides persuasive evidence that Commission III's work on *The Rights of the Man* influenced the creation of the UDHR through key LIA members on the Drafting Commission. The LIA played a part in the development of the UN's international humanitarian law. LIA recommendations influenced UN's policymaking as its members were important government officials, its reports were well known, and it was a politically significant body. LIA also played an important role in the UNWCC and its international justice initiative, the legacy of which can be seen in contemporary international humanitarian law.

Chapter 3

⁹⁶ Lingen, *Setting the Path for the UNWCC*, p1.

⁹⁷ M.S. Ellis, *Sovereignty and Justice: Balancing the Principle of Complementarity Between International and Domestic War Crimes Tribunals*, (Cambridge Scholars Publishing, 2014), p18.

⁹⁸ UNWCC, *History of the UNWCC*, pp99-104.

Having examined the LIA's contribution to the discourse on the idea of human rights, as well as its impact on the human rights movement of the UN, this chapter will assess how significant the LIA and its members were to the NT. This section will analyse how the LIA and its members contributed to the creation and development of the Trials. By studying the LIA's contribution to the NT, this thesis seeks to place the LIA in the overarching narrative of the Trials' human rights contribution.

The LIA established that war criminals needed to be tried, to act as a deterrent for future aggressors and to prevent future human rights abuses. The 1944 LIA report on the Punishment of War Crimes concluded 'if the world is to be saved from a repetition of the horrors of the past four years, then war criminals must not be allowed to go unpunished.' The report identifies the failure of the Versailles Treaty, as well as the use of German national courts to try German war criminals at the 1919 Leipzig Trials, as the reasons for the lack of prosecutions. This resulted in the acquittal of 'nearly a thousand Germans charged with the most heinous war crimes.'⁹⁹ This was due to the flaws in international criminal law. The LIA identified these flaws as the loose legal definition of war crimes, lack of international machinery to dispense justice, and sometimes the denial of the 'very existence' of an international criminal law.¹⁰⁰ In 1942, Commission I had begun to work on plans for the 'apprehension, trial, and punishment' of war criminals. These plans had to be meticulous to prevent criminals escaping

⁹⁹ LIA, *The Punishment*, p5.

¹⁰⁰ LIA, *The Punishment*, p6.

justice, but also to 'prevent the peoples who have suffered intolerable wrongs from seeking rough and ready justice.'¹⁰¹ Justice, as opposed to vengeance, was one of the radical developments of post-WWII international humanitarian law, according to Hagan.¹⁰² Thus, despite the 'general scepticism', conflicting views amongst the Allies, and limited precedent for such a study, the LIA set out to plan for the effective and just punishment of war criminals.¹⁰³

The LIA defined 'war crimes' and specified punishable war crime acts. This work was innovative, and is highly regarded amongst current legal historians.¹⁰⁴ Before WWII, international law loosely defined war crimes as violations committed against another nation, during international arms conflict, according to Boot.¹⁰⁵ The LIA widened the definition to include 'any grave outrages violating the general principles of criminal law', during wartime, against another nation *or* within a nation.¹⁰⁶ Furthermore, the criminal polices should 'concern humanity as a whole.' A 1943 report considered it 'essential' that the categories of crimes should be 'stated as precisely as possible', in order to secure definitive prosecutions of war criminals.¹⁰⁷ The 1944 summary resolutions of Commission II expanded and specified war crimes acts, for example acts of aggression (initiating or waging war) or crimes committed for the extermination of a race,

¹⁰¹ LIA, *The Punishment*, p1.

¹⁰² J. Hagan, *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal*, (University of Chicago Press, 2010), p18.

¹⁰³ LIA, *The Punishment of War Criminals*, pp2-4.

¹⁰⁴ H. Shinohara, *US International Lawyers in the Interwar Years: A Forgotten Crusade*, (Cambridge University Press, 2012), p191.

¹⁰⁵ Boot, *Genocide, Crimes*, p180.

¹⁰⁶ LIA, *The Punishment*, p12.

¹⁰⁷ LIA, *The Punishment*, p1.

nation or political party.¹⁰⁸ This initiated the juridical extension in international criminal law from the previous narrowly focused war crime accusations, to prosecuting Nazis' at the NT for 'crimes against humanity.'¹⁰⁹ The LIA concluded war crimes could be perpetrated by direct or indirect action, and by any rank, including the Heads of State.¹¹⁰ This, according to Historian Grzebyk, was an essential development in the international law code for securing the prosecutions of top officials at the NT.¹¹¹ Thus, the evidence strongly suggests the LIA resolutions on the punishment of war criminals laid the foundations for effective prosecutions at the NT. Furthermore, the LIA set the path for the current International Criminal Court's prosecutions of 'crimes against humanity.'¹¹²

The LIA was the forerunner to the UNWCC, creating plans for an international criminal court, which would become the International Military Tribunal of Nuremberg, in other words, the NT. The LIA created the theoretical underpinning for the international legal machinery to protect human rights and punish war criminals, according to a UN's 1949 Report.¹¹³ Sellars suggests the LIA and its exiled government members were the first to debate the issue of an

¹⁰⁸ TNA: TS 26/873, LIA, *Commission I for the Questions Concerned with the Liquidation of the War*, pp324-325.

¹⁰⁹ Bassiouni, *Crimes*, p72.

¹¹⁰ TNA: TS 26/873, LIA, pp324-325.

¹¹¹ P. Grzebyk, *Criminal Responsibility for the Crime of Aggression*, (Routledge, 2013), p231.

¹¹² International Criminal Court, *What are Crimes against Humanity?*,

https://www.icc-cpi.int/en_menus/icc/about%20the%20court/frequently%20asked%20questions/Pages/12.aspx[accessed 2/03/2016].

¹¹³ UN: A/CN.4/7/Rev.1, *Historical Survey*, p18.

international court with jurisdiction over aggression.¹¹⁴ Between 1942 and 1944, Commissions I and II discussed the establishment of an international tribunal, and outlined its form in a proposal called *The Draft Convention for the Creation of an International Criminal Court*. The LIA recognised it would be impossible to punish all war criminals in an international court.¹¹⁵ According to Zeidy, the LIA was the first to propose a clear complementary relationship between domestic courts and an international court for criminal justice.¹¹⁶ The LIA proposed the creation of an international, inter-allied court, at the immediate end of the war.¹¹⁷ Where possible, the Allied nations domestic courts would have jurisdiction to punish war criminals. The international court should be used for war crimes committed in Axis countries, against stateless persons, by Heads of State, where the United Nations has no jurisdiction, or where war crimes had been committed in several countries. The draft envisaged an international organisation, created by the United Nations, which had, 'at its disposal, an international force with which to resist aggression in any part of the world.'¹¹⁸ Thus, the LIA created practical, yet revolutionary and visionary, plans for the creation of an international criminal law court during WWII. Later evidence will demonstrate these plans were used to create the infrastructure of the NT.

The LIA influenced the development of the NT through its close work with the UNWCC. Schabas argues UNWCC laid the groundwork for the prosecutions at Nuremberg. The UNWCC was instrumental in the creation of the 1945

¹¹⁴ Sellars, *Crimes against Peace*, p53.

¹¹⁵ TNA: TS 26/873, p232.

¹¹⁶ Zeidy, *The Principle of Complementarity*, p59.

¹¹⁷ TNA: TS 26/873, pp324-325.

¹¹⁸ LIA, *Reports on the Punishment of War Crimes*, pp225-346.

Nuremberg Charter. The Charter set down the laws and procedures by which the International Military Tribunal of the NT was to be conducted. The UNWCC prepared a *Draft convention for the Establishment of a United Nations War Crimes Court*, considered to be the basis of the 1945 Nuremberg Charter. However, the UNWCC's draft was based on the draft convention for an international court created by the LIA in 1944.¹¹⁹ Furthermore, Von Lingen argues that the UNWCC's plans to criminalise "crimes against humanity" served as a blue print for the Charter. This concept was strongly influenced by the LIA's resolutions on widening the scope of punishable war crimes.¹²⁰ MacDonald suggests the LIA was more directly involved in preparation of the Charter, as Commission I made recommendations to the draft authors based on its own 1944 *Punishment of War Criminals* report.¹²¹ As well as influencing the Charter, the *History of UNWCC* suggests the LIA's work, on an international tribunal and the punishment of war crimes, served as the basis on of the UNWCC's own theories in such areas. The UNWCC put into practise the theoretical work of the LIA in 1945 and 1946, as an advisory body for the NT.¹²² Thus, the work of the LIA influenced the development of the NT, as it partly laid the foundation for the Charter, and its theories were used by the UNWCC in the NT.

The recommendations of the L.I.A. served as a basis for negotiations in the creation of the UNWCC and the NT, according to General De Baer. In spite of this, many historians propose Justice Robert H. Jackson designed and implemented

¹¹⁹ W.A. Schabas, *An Introduction to the International Criminal Court*, (Cambridge University Press, 2011), p5.

¹²⁰ Lingen, *Defining Crimes*, p476.

¹²¹ MacDonald and Swaak-Goldman, *Substantive and Procedural*, p279.

¹²² UNWCC, *History of the UNWCC*, pp99-104.

the NT.¹²³ While this is partly true, he paid his respects to the UNWCC, which had 'given him the basis for the work' he was undertaking.¹²⁴ The work LIA served as a basis for the UNWCC. However, the work of the Commission for Penal Reconstruction and Development also helped the UNWCC. The CPRD was a semi-official body of jurists, from the United Kingdom and certain Allied Countries. It was set up in 1941 to advice on the rules and procedures relating to the punishment of crimes, committed in the interwar years. The 1949 United Nations International Law Commission stated that the LIA, the CPRD, and most significantly the UNWCC, were influential bodies on the shape of the eventual International Military Tribunals of the NT. However, the CPRD 'never arrived at any definite proposals', although they collected 'much useful information (especially on the national jurisdiction over war criminals)' and some of its members gave 'interesting opinions' on the problems of an international criminal court. The *History of the UNWCC* supports this. It states the CPRD created a useful *Interim Report* in July 1942 on the study of the punishment of war crimes, but made 'no elaborate proposals concerning the organization of the tribunal envisaged.'¹²⁵ Von Lingen argues both the LIA and the CPRD, as predecessors of the UNWCC, were crucial as they 'advocated new ideas of post-war justice.'¹²⁶ However, the evidence suggests that the work of the LIA was more influential in the UNWCC and development of the NT, than the CPRD.

¹²³ Hagan, *Justice in the Balkans*, p24.

¹²⁴ London, de Baer Archive, Diplomatic and Military Correspondences of General M. de Baer, N.P.

¹²⁵ UN: A/CN.4/Rev.1, *Historical Survey*, p20.

¹²⁶ Lingen, *Defining Crimes*, p486.

Bodies such as the UNWCC and CPRD overlapped with the work of the LIA. However, the LIA made a definitively unique contribution to the NT. Its members were crucial campaigners and political lobbyists demanding the creation of an international military tribunal, which became the NT. There were official declarations such as the 1943 Moscow Declarations that demanded retribution for the sufferings of WWII.¹²⁷ However, the LIA and its members were the first to advocate, internationally and publically, for the trial of high-ranking war criminals in an international court. From 1943, the multitude of newspaper articles from across Europe and America, testify to this. The Daily Herald (United Kingdom) reported the first Chairman Cecil presented proposals for the trial of war criminals at an international court, which represented 'real courts of justice exerting real legal authority.' The Davenport (USA) reported that the LIA's Draft was the basis for the United Nations 'plan to control the Nazi's.'¹²⁸ Dr Pretazel wrote to General de Baer about the 'reports in the newspapers all over the world' about the LIA proposed World Court.¹²⁹ In a personal note, de Baer wrote 'between 1941 and 1944, I spoke at three hundred conferences in both Great Britain and America' on the punishment of war crimes.¹³⁰ In December 1943, the LIA *Minutes* recorded de Baer going to the White House to canvas support for the LIA's resolutions in the *Punishment of War Criminals* Report.¹³¹ Historian Sellars proposes there is 'no doubt' that the European variant of the aggression charge

¹²⁷ C.D. Vos, S. Kendall, and C. Stahn, *Contested Justice: The Politics and Practice of International Criminal Court Interventions*, (Cambridge University Press, 2015), p91.

¹²⁸ London, de Baer Archive, Newspaper Cuttings, N.P.

¹²⁹ London, de Baer Archive, Letter from Dr Pretazel to General de Baer, 5/4/1946.

¹³⁰ London, de Baer Archive, 1941-1945 Notes on my Activity in London Concerning War Crimes, N.P.

¹³¹ TNA: LNU, vol. 6/7, LIA Commission III Report, 23/2/1943.

idea crossed the Atlantic with General De Baer.¹³² Thus, the evidence indicates the LIA and its members were of fundamental importance in gaining public and political support for the NT.

These efforts culminated in the ratifying of Nuremberg Charter by nineteen Allied states, on 8th August 1945. The trials were between November 1945 and October 1946. The LIA members were active participants in the NT. Reputable LIA member Bohuslav Ecer was the head of the Czech delegation for prosecutions at the NT. Frommer suggests Ecer played a leading role in the drafting of international norms on the capture and punishment of war criminals. He is also credited with spearheading the trial of Nazi leaders for crimes of 'aggressive war', which were central charges at the NT.¹³³ The extensive military and diplomatic correspondence suggests de Baer, as a respected court judge and member of both the LIA and UNWCC, acted as a consultant on the technical legal details of the Trials. For example, between 1944-1946 he advised war crimes investigators, such as Clark Denny, Director of the Military Division of the US Army, on how to apprehend war criminals, based on his previous work on Commission I of the LIA.¹³⁴ A letter from Denny in November 1946 thanked de Baer for his recent interrogation of General von Falkenhausen at Nuremberg, and in another says he is 'extremely grateful for the material you have forwarded us' advising on the trails of German Generals and other top Nazi's at

¹³² Sellars, *Crimes against Peace*, p53.

¹³³ B. Frommer, *National Cleansing: Retribution Against Nazi Collaborators in Postwar Czechoslovakia*, (Cambridge University Press, 2005), p67.

¹³⁴ London, de Baer Archive, Letter from Clark Denney to de Baer, 19/9/1946.

Nuremberg.¹³⁵ Robert Springer, USA Colonel on the UNWCC, invited de Baer to attend the Trials as a 'special representative.'¹³⁶ The limited sources make it difficult to establish the impact of the LIA member's contributions. Despite this, the evidence does support my argument that the LIA members advised the Trails, and their participation, in some way, helped to gain justice for the mass atrocities of WWII.

This chapter has focused on the importance of the LIA and its members in the creation and development of the NT. The LIA created the legal theory behind the punishment of war criminals, and the practical planning of an international criminal court. LIA reports and the valuable knowledge of its members were used by the UNWCC, and as a foundation of the Nuremberg Charter and NT. Its members were crucial in gaining public and political support for the Trials, and some continued to play an active role in the tribunals. The LIA contribution to the NT reinforced international standards of human rights and played a part in developing current international humanitarian law.

Conclusion

This deeper analysis of the LIA has found that it had a more profound impact on the post-WWII human rights movement than historians have given it credit for. This study demonstrates the LIA grew in importance as the value of its work became clearer, in light of the mass atrocities committed by the Nazi's. Until

¹³⁵ London, de Baer Archive, Letter from Clark Denney to de Baer, 21/11/1946.

¹³⁶ London, de Baer Archive, Letter from Colonel Springer to de Baer, 29/11/1946.

WWII, there was no political action taken to legislate for the provision of human rights. This thesis illustrates the LIA was a forerunner in identifying the need for human rights to be enshrined in international law, to ensure their protection. Moreover, this thesis establishes the LIA pioneered legally defined 'basic' human rights, and the necessity to legislate for their universal application. Thus, the evidence supports my hypothesis that the LIA's contribution to the development of international humanitarian law has been overlooked.

This thesis goes onto link the work of the LIA to the United Nations human rights movement. Analysis of the evidence leads to my conclusion that the LIA played a part in the creation and content of the UDHR. The LIA had prominent members on the Drafting Committee, reputable members in the UN and the LIA's report on human rights were well known. It would be reasonable to conclude that the work of the LIA informed its member's future human rights work. Furthermore, the LIA gained justice for the WWII human rights abuses through its close work with the UNWCC. Lastly, the LIA worked on the practical planning of the NT. The efforts of the LIA members were crucial to gaining support for the Trails. The LIA's work laid the foundation for current international human rights law. Within the confines of this study, it is difficult to fully establish the extent of the LIA's contribution to human rights and international humanitarian law. Nonetheless, this study is the first and most extensive in current scholarship on the LIA. The overview of the LIA's work, its members, and its influences supports my thesis that the LIA's human rights work has gone unrecognised in current historiography.

Bibliography

Primary

The National Archives, London School of Economics, League of Nations Union, London International Assembly, reel no. 19, vol. 5/75 to vol. 6/8, positive copy, 1941-1944

TNA: LNU, 5/75 First General Meeting Minutes, 19/9/1941.

TNA: LNU, vol. 5/75, LIA Preparatory Committee and General Purposes Committee. Meetings Minutes, 20/09/1941.

TNA: LNU, vol. 5/75 LIA General Meeting Minutes, 18/6/1942.

TNA: LNU, vol. 5/7, LIA Minutes of the Preparatory Committee and General Purposes Committee, 20/10/1943.

TNA: LNU, vol. 6/5-8, LIA Minutes of Meetings 1941-1944.

TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 29/09/1943.

TNA: LNU, vol. 6/6, LIA Preparatory Committee Minutes, 15/12/1943.

TNA: LNU, vol. 6/7, LIA General Purpose Committee Minutes, 20/9/1943.

TNA: LNU, vol. 6/7, LIA General Purpose Committee Minutes, 15/12/1943.

TNA: LNU, vol. 6/7, LIA Commission III Report on Individual Rights, 23/2/1943.

TNA: LNU vol. 6/8, LIA General Purpose Committee Minutes 1941-1944.

TNA: LNU, vol. 6/8 Final General Assembly debate, December 1944, 879.

The National Archives, Kew, Public Record, London International Assembly

TNA: TS 26/873, LIA, *Commission I for the Questions Concerned with the Liquidation of the War*, 1 Volume. Processed. Table of contents, 324-325.

United Nations Sources

UN: A/CN.4/Rev.1, *Historical Survey of the Question of International Criminal Jurisdiction – Memorandum submitted by the Secretary-General*, (United Nations, 1949), http://legal.un.org/ilc/documentation/english/a_cn4_7_rev1.pdf [accessed 26/03/2016].

UN: E/CN.4/W.16, Economic and Social Council, Commission on Human Rights, Memorandum by the Division of Human Rights, 23/1/1947.

UN: E/CN.4/AC.4/1/6/Add.1/, Nuclear Committee Meeting, 9-10.

UN: E/CN.4/AC.1/SR.44, 44th Meeting, 14/05/1948,

http://www.un.org/en/ga/search/view_doc.asp?symbol=E/CN.4/AC.1/SR.44

[accessed 26/03/2016].

UN: E/SR.218, 218th Meeting, held on Thursday, 26/08/1948,

http://www.un.org/en/ga/search/view_doc.asp?symbol=E/SR.218 [accessed

26/03/2016].

Published Primary Works

Burchnall, R., *Catalogue of the papers of Arthur Lehman Goodhart (1891-1978)*, (1993).

Lemkin, R., *Lemkin on Genocide*, ed. by S.L. Jacobs, (Lexington Books, 2012),

<http://www.bodley.ox.ac.uk/dept/scwmss/wmss/online/modern/goodhart/goodhart.html> [accessed 17 April 2016].

[accessed 17 April 2016].

LIA, *The Form and Function of the World Organization proposed by the LIA*,

(Cockayne & Co, London, 1944).

LIA, *The Punishment of War Criminals recommendations of the LIA*, (LIA, 1944)

United Nations Centre, *High-level UN forum on development cooperation paves way for 'leaving no one behind'*,

<http://www.un.org/apps/news/story.asp?NewsID=53634#.VwpIPsfA2cl>

[accessed 26/03/2016].

Roosevelt, E., *Universal Declaration of Human Rights*, (United Nations, 2015), 1,

http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf [accessed

14/4/2016].

UNWCC, *History of the UNWCC*, Chapter 5, (His Majesty's Stationary Office, 1948),

<http://www.cisd.soas.ac.uk/Files/docs/23225039-history-of-the-unwcc-chapter-5.pdf>

[accessed 26/03/2016].

London, de Baer Archive, Family of Belgian General Marcel de Baer, N.P.

Diplomatic and Military Correspondence of General M. de Baer.

Image 1: Belgian General Marcel de Baer, Second Chairman of the London International Assembly, 1944.

Letter attached to *Reports on The Punishment of War Crimes*, 1943.

Letter from Clark Denney to de Baer, 19/9/1946.

Letter from Clark Denney to de Baer, 21/11/1946.

Letter from Colonel Springer to de Baer, 29/11/1946.

Letter from Dr Pretazel to General de Baer, 5/4/1946.

Letter from General de Baer to the Minister of Foreign Affairs and overseas Commerce in Brussels, UNWCC 662/W.C, 11/7/1945.

de Baer's personal copy of the LIA, *Reports on the Punishment of War Crimes*, (LIA, 1943).

Newspaper Cuttings Book.

1941-1945 Notes on my Activity in London Concerning War Crimes.

Secondary

Alston, P., and Goodman, R., *International Human Rights*, (OUP Oxford, 2012).

Arsanjani, M.H., and J.Cogan, *Looking to the Future: Essays on International Law in Honor of W. Michael Reisman*, (BRILL, 2010).

Bassiouni, M.C., *Crimes Against Humanity in International Law*, (Martinus Nijhoff Publishers, 1999).

Boot, M., *Genocide, Crimes Against Humanity, War Crimes*, (Intersentia nv, 2002).

Conot, R.E., *Justice at Nuremberg*, (Carroll & Graf, 1984).

Ellis, M.S., *Sovereignty and Justice: Balancing the Principle of Complementarity Between International and Domestic War Crimes Tribunals*, (Cambridge Scholars Publishing, 2014).

Frazier, E.F., and Williams, E., *The Economic Future of the Caribbean*, (The Majority Press, 1943).

Frommer, B., *National Cleansing: Retribution Against Nazi Collaborators in Postwar Czechoslovakia*, (Cambridge University Press, 2005).

Grzebyk, P., *Criminal Responsibility for the Crime of Aggression*, (Routledge, 2013).

- Gunn, G., *Ideas to Die For: The Cosmopolitan Challenge*, (Routledge, 2013).
- Hagan, J., *Justice in the Balkans: Prosecuting War Crimes in the Hague Tribunal*, (University of Chicago Press, 2010).
- Hobbins, A.J., *Rene Cassin and the Daughter of Time: The First Draft of the Universal Declaration of Human Rights*, (McGill University Library Publications, 1989).
- Hunt, L., *Inventing Human Rights: A History*, (Norton, 2008).
- Loucadies, L.G., *The European Convention on Human Rights: Collected Essays*, (Martinus Nijhoff Publishers, 2007).
- MacDonald, G.K. , and Swaak-Goldman, O.Q., *Substantive and Procedural Aspects of International Criminal Law*, (BRILL, 2000).
- Mittal, A., and Rosset, P., *America Needs Human Rights*, (Food First Books, 1999).
- Morsink, J., *The Universal Declaration of Human Rights*, (University of Pennsylvania Press, 2010).
- Queeney, K.N., *Direct Broadcast Satellites and the United Nations*, (BRILL, 1978).
- Schabas, W.A., *An Introduction to the International Criminal Court*, (Cambridge University Press, 2011).
- Sellars, K., *'Crimes against Peace' and International Law*, (Cambridge University Press, 2013).
- Shinohara, H., *US International Lawyers in the Interwar Years: A Forgotten Crusade*, (Cambridge University Press, 2012).
- Stamos, D.N., *Myth of Universal Human Rights: Its Origin, History, and Explanation, Along with a More Humane Way*, (Routledge, 2015).
- Takemura, H., *International Human Right to Conscientious Objection to Military Service and Individual Duties to Disobey Manifestly Illegal Orders*, (Springer Science & Business Media, 2008).
- Vos, C.D., Kendall, S., and Stahn, C., *Contested Justice: The Politics and Practice of International Criminal Court Interventions*, (Cambridge University Press, 2015).
- Weissbrodt, D.S. and Vega, C.D.L., *International Human Rights Law: An Introduction*, (University of Pennsylvania Press, 2007).
- Zamoyski, A., *The Phantom Terror*, (Basic Books, 2015).
- Zeidy, M.M.E., *The Principle of Complementarity in International Criminal Law: Origin, Development and Practice*, (BRILL, 2008).

Online Journal Articles

Hannum, H., 'The Status of the Universal Declaration of Human Rights in National and International Law,' *Georgia Journal of International and Comparative Law* 25, nos. 1-2 (1995/1996), 289,
<http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1396&context=gjicl> [accessed 15/4/2016].

Koh, H., 'How is International Human Rights Law Enforced?', *Indiana Law Journal*, Vol. 74 (3), (1999), 1397-1417,
<http://www.repository.law.indiana.edu/ilj/vol74/iss4/9> [accessed 18/04/2016].

Lingen, K.V., Defining Crimes Against Humanity: The Contribution of the United Nations War Crimes Commission to International Criminal Law, 1944-1947, *Forum for International Criminal and Humanitarian Law's Historical Origins of International Criminal Law*, Vol. 1, (2014),
<http://www.cisd.soas.ac.uk/Files/docs/26038760-von-lingen-fichl.pdf> [accessed 25/3/2016].

Lingen, K.V., Setting the Path for the UNWCC: The Representation of European Exile Governments on the London International Assembly and the Commission for Penal Reconstruction and Development, 1941-1944, *Criminal Law Forum*, Volume 25, Issue 1, (2014), 45-76,
<http://link.springer.com/article/10.1007%2Fs10609-014-9229-9> [accessed 15/4/2016].

Nicket, J., *Human Rights*, (Stanford University Press, 2003),
<http://plato.stanford.edu/entries/rights-human/> [accessed 30/03/2016].

Vrdolajak, A.F., 'Human Rights and Genocide: The Work of Lauterpacht and Lemkin in Modern International Law', *European Journal of International Law*, 2008, <http://www.ejil.org/pdfs/20/4/1940.pdf> [accessed 25/3/2016].

Websites

Gladstone, R., *UNWCC Synopsium*, <http://www.unwcc.org/wp-content/uploads/2014/11/Goldstone-Foreword.pdf> [accessed 26/03/2016].

UNWCC Summary, <http://www.unwcc.org> [accessed 26/03/2016].

LSE Archives, Description of the League of Nations, <http://archives.lse.ac.uk/Record.aspx?src=CalmView.Catalog&id=LNU> [accessed 7/04/2016].