

LAURA DI GIANFRANCESCO\*

GIULIO BARTOLINI (ED.),  
*A HISTORY OF INTERNATIONAL LAW IN ITALY*,  
OXFORD, OXFORD UNIVERSITY PRESS, 2020

Following decades in which the progressive specialization of international law had directed scholarly attention away from history, in recent years a renewed interest for historical approaches to international law has emerged in scholarly works, marking what has been described as a “turn to history in international law.”<sup>1</sup> Such interest has been accompanied by the tendency to perform historical analyses through national or local perspectives, overcoming previous scepticism over the possibility of identifying national conceptions of international law.<sup>2</sup> The traditional resistance to the development of studies focusing on national perspectives can be explained by taking into account international law’s inherent aspiration to universality. However, international scholarship nowadays appears to recognize that, while international lawyers may indeed be considered part of an “invisible college dedicated to a common intellectual enterprise,”<sup>3</sup> still such community is not uniform, each national scholarship providing a different contribution to, and offering a different outlook on, international law.<sup>4</sup> In this respect,

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\* PhD in International Law, Roma Tre University.

<sup>1</sup> M. CRAVEN, *Theorising the Turn to History in International Law*, in A. ORFORD & F. HOFFMANN, *The Oxford Handbook of the Theory of International Law*, Oxford, Oxford University Press, 2016; M. KOSKENNIEMI, *Why History of International Law Today?*, *Rechtsgeschichte*, 4, 2004.

<sup>2</sup> H. LAUTERPACHT, *Règles générales du droit de la paix*, *Collected Courses of the Hague Academy of International Law*, 62, 1937, p 106.

<sup>3</sup> O. SCHACHTER, *The Invisible College of International Lawyers*, *Northwestern University Law Review*, 72, 1977-78, p. 217.

<sup>4</sup> A. ROBERTS, *Is International Law International?*, Oxford, Oxford University Press, 2017, p. 1 ff, re-framing the no-

far from enhancing particularism, inquiries into national histories and perspectives may contribute to a broader understanding of the multi-faceted nature of international law and to the critical evaluation of its developments and challenges.

Against this background, it appears relevant nowadays to devote attention to the multiple connections and mutual interactions between the global and the local. However, as far as European States are concerned, whereas significant research has been conducted over the local approaches of France, Germany and the United Kingdom, a modern comprehensive account of the role of Italian legal scholarship of international law was surprisingly absent. As Giulio Bartolini observes, most scholarly works offering a comprehensive account of the Italian perspective date back to the first half of the 20<sup>th</sup> century, while recent studies have usually dealt with more limited aspects.<sup>5</sup>

The declared purpose of the volume “A History of International Law in Italy”, edited by Giulio Bartolini and published in 2020 by Oxford University Press, is to fill this gap by retracing the development of international law studies in Italy and analysing the contribution of the Italian scholarship and experiences to the development of international law. Without the ambition to portray “the” history of international law in Italy, the volume explicitly seeks to offer “a” history, welcoming other approaches that may foster further reflections.

The book purports to develop its history by re-assessing, on the one hand, the mutual relationship and influence between the Italian scholarship and international law, and, on the other hand, by analysing the impact of the main historical and political events in the development of this relationship. To this end, the book is divided into two main sections, the first dedicated to “The Development of International Law Scholarship in Italy” and the second focusing on “Key Historical and Political Events and their Impact on the Italian Scholarship of International Law.”

The first section assesses the birth and development of the Italian scholarship of international law by analysing its main theoretical trends, as well as the works of its

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tion of “invisible college” in terms of a “divisible college.”

<sup>5</sup> G. BARTOLINI, *What is a History of International Law in Italy for? International Law through the Prism of National Perspectives*, in G. BARTOLINI, *A History of International Law in Italy*, Oxford, Oxford University Press, 2020, pp. 8-9.

protagonists and their participation to a multiplicity of networks, at both the internal and the international level.

The contributions often do so by offering insightful counter-narratives to historical and doctrinal assumptions. Claudia Storti, for instance, challenges the common indication of the Treaty of Westphalia of 1648 as the birth of modern international law, analysing the experience of Italian communes in the Middle Ages as an early laboratory for statehood. On his part, Walter Rech challenges the qualification of the period between the 17<sup>th</sup> and the early 19<sup>th</sup> century as an era of decline for international law in Italy, demonstrating, instead, that the political decline of the peninsula did not prevent Italian scholars of the time from participating in the shaping of international legal rules.

The chapters further examine the development of the Italian scholarship of international law, analysing the origins and developments of the “Italian school of international law” (see Edoardo Greppi’s recollection of the role of Pasquale Stanislao Mancini and his elaboration of the nationality principle as the basis for international subjectivity, and Eloisa Mura’s overview of the dialectic relationship between the Mancinian and the Positive schools), up the turning point of the 20<sup>th</sup> century, which marked a shift from pure positivism to a multitude of theoretical approaches (chapters by Giulio Bartolini on the early 20<sup>th</sup> century and Antonello Tancredi on the immediate aftermath of World War II). Ivan Ingravallo then surveys the evolution of Italian scientific journals on international law, their influence on the development of the different legal schools as well as their relationship with the political power.

The chapters by Mirko Sossai and Lorenzo Gradoni further challenge the idea that the traditional positivist approach rendered the Italian scholarship impermeable to the influence of Catholicism and Marxism. Particularly, Sossai shows that, notwithstanding the characterization of the Italian doctrine of international law as an essentially secular enterprise, the Catholic tradition was indeed a source of inspiration for international law scholars. Gradoni, instead, attempts to rescue the Italian Marxist scholarship from oblivion by showing its doctrinal significance despite a short duration in time.

Attention is also dedicated to analyse how the tradition of the Italian scholarship continues to shape the Italian approach to the study of international law. In this regard, Pietro Franzina examines the peculiar integrated approach to the study of public and

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private international law in Italy, a distinctive Italian feature that finds its roots in Mancini's theory of nationality.

The second section focuses, as mentioned, on an assessment of the interconnections between key historical and political events and the development of international law in Italy and by Italy.

In this respect, the contributions comprehensively cover major events in Italian history: from the Unification of Italy in 1861 and the Roman Question (respectively analysed by Sergio Marchisio and Tommaso di Ruzza), to the Colonial experience of Italy in Eritrea and Somalia (Tullio Scovazzi), the impact of the two World Wars (Giulio Bartolini), the elaboration of the 1948 Constitution (Roberto Virzo) and, finally, the aftermath of World War II, up to the development of the European integration (Enrico Milano). The contributions illustrate that international law pervades key moments of Italian history and how it has helped shape the very essence of the country – the use of legal categories of international law as functional to Italy's unification process and the internationalist spirit of the Constitution being paradigmatic examples –.

Finally, the concluding section of the volume focuses on the current role of the Italian legal scholarship of international law. Giovanni Distefano and Robert Kolb examine the Hague Academy courses and the law of State responsibility as two key examples of the prominent influence that Italian scholars continue to exercise on the development and teaching of international law. By contrast, Paolo Palchetti offers a contemporary view on the Italian scholarship, appreciating its continued vitality and its ability to allow other approaches and methodologies permeate its work, while remaining faithful to the traditional positivistic conception of international law.

Conclusively, the volume shall be welcomed as an important contribution to the historical and comparative studies on international law. Moreover, besides being commendable for its outstanding scientific quality, the book may also be considered an important tool for young international law scholars, who inherit the tradition of a "fortress" – to use a metaphor by Luigi Condorelli,<sup>6</sup> which Palchetti borrows in his

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<sup>6</sup> L. CONDORELLI, *Scholie sur l'idiome scellien des manuels francophones de droit international public*, *European Journal of International Law*, 1, 1990, p. 233.

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concluding lines – that “has not yet capitulated” in the face of globalization.<sup>7</sup> For those approaching international law today, it is more than significant to acknowledge this tradition. “A History of International Law in Italy” is also an invitation to re-read the classics, stimulating a renewed interest for “one of the great legal schools of international law.”<sup>8</sup>

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<sup>7</sup> P. PALCHETTI, *The Italian Doctrine over Final Decades*, in G. BARTOLINI, *A History of International Law in Italy*, Oxford, Oxford University Press, 2020, p. 481.

<sup>8</sup> G. DISTEFANO-R. KOLB, *Some Contributions from and Influence of the Italian Doctrine of International Law*, in G. BARTOLINI, *A History of International Law in Italy*, Oxford, Oxford University Press, 2020, p. 466.

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