“International Law in Europe: Between Tradition and Renewal” – The Inaugural Conference of the European Society of International Law

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The Inaugural Conference of the recently established European Society of International Law (ESIL) was held on 13-15 May 2004 in Florence in a troubling context: on the one hand, some international legal scholars consider that recent events, in particular the “War on terror” and the United States’ “intervention” in Iraq, have “threatened the integrity and relevance of international law.” On the other hand, the drafting process of the Constitution of the European Union reminds us of how heterogeneous Europeans are in terms of values and culture at large. Why, then, to establish a “European” Society of International Law?

The theme of the opening session of the conference was, quite appropriately, the raison d’être of the new Society. For Judge Bruno Simma, one of ESIL’s founders and its President, being European is more “a state of mind” than a geographical notion. A call for an inclusive Society that recognises no geographical frontiers had indeed attracted a number of non-Europeans, mostly from the developed world, to the event. Coining the “European state of mind”, identity, or intuition, shared by such a heterogeneous audience proved, however, a challenging exercise:

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1 The founding meeting of ESIL was held in May 2001 on the initiative of the editors of the European Journal of International Law (Philip Alston, Antonio Cassese, Pierre-Marie Dupuy, Bruno Simma, and Joseph Weiler) in conjunction with Hanspeter Neuhold. A group of twenty legal scholars from different parts of Europe participated in the meeting. ESIL was incorporated in The Hague in May 2004. See www.esil-sedi.org/english/about_founding.html.


3 In his welcome address, Judge Simma told that approximately 20% of the 350 conference participants were non-Europeans. See also a previous conference review, M. Goodwin and A. Kemmener, “A Sounding Brass, or a Tinkling Cymbal? Reflections on the Inaugural Conference of the European Society of International Law”, 5(7) German Law Journal (2004) 850 at 851, fn. 6.
Iulia Motoc painted in her intervention an image of a humanist, sensitive and cosmopolitan European international lawyer that we would undoubtedly all like to be. Pierre-Marie Dupuy, another founder of the Society, identified the rule of law as the basis of all European societies and argued that “the language of law” united Europeans. Yves Mény, President of the European University Institute that supported the establishment of ESIL, considered that Europe could “help to democratise international law” as a multilateral force opposing American unilateralism. Professor Philip Alston, an Australian national and ESIL’s Vice-President, advocated that Europe would need to produce a new, “truly European vision of international law”, which would be “a shining example” and “followed by others.” That vision would, according to Professor Georges Abi-Saab, be based on Greco-Roman and Kantian heritage and be “very different from the view of the Empire.” Leaving no room for doubt, the distinction stood for the European-American rivalry – a recurrent theme at the conference in general, and at the heated keynote event entitled “International Law in the Shadow of Empire” with Alain Pellel and Michael Reisman in particular.

In the debate on the identification of the “European,” more emphasis could, perhaps, have been placed on the role of history: its arguably continuous and influential presence in the “European vision of international law” may well be the key to understanding the “European view”. An excellent panel entitled “Europe and International Law’s Colonial Past” was however held the following day. It discussed the significant role that colonialism played in the universalisation of European international law and how colonialism arguably continues to function through the apparently neutral and objective legal structures, reproducing itself in current legal discourse.

A certain European triumphalism, reflected in several interventions during the conference, did not go unnoticed. While Joseph Weiler considered that the conference was, indeed, an occasion for satisfaction that “we Europeans have a better way” of governance, he warned against “copying American triumphalism.” In his view, Europe could contribute importantly to reforming international governance structures on the basis of its multilateral and transparent decision-making processes, which could not, however, be simply transposed to the international level. In a

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