Book Reviews/Comptes rendus

Luigi Nuzzo

*Origini di una scienza. Diritto internazionale e colonialismo nel XIX secolo*

What is the history of international law for? Either to glorify the present as an inescapable step of humanity towards its alleged self-realization; or to unveil the past instrumental uses of international law and remind us that present-day international law is presumably equally used.1 Probably both goals, although in different doses, operate simultaneously in every historical study. With respect to the second goal, history allows the detachment that is necessary to be able to see presentist biases. Nuzzo's book, written in Italian and published by Klostermann, shows how international law was “constructed” by a variety of Western scholars in the nineteenth century by combining the idea of a “science” of international law with colonialism, moral superiority, sense of humanity, paternalism and at times what today appears as racism. Luigi Nuzzo is Professor of the History of Law at the University of Salento in Lecce, Italy. His book is remarkable for the accuracy of historical details, documentation, clarity, and insightfulness. It deconstructs the stereotypes and paradoxes of legal doctrine, building in part on the critical approach adopted in a previous book focussed on the “language of the Conquest”.2 The topic has been treated also in another book, written in English, edited by himself and Miloš Vec and published by the same publishing house in 2012, in which Nuzzo contributed the introduction and an article.3

1 The topic “What Is the History of International Law for?” was discussed in some detail by the present reviewer at the University of Bologna in the International Conference on “Investigating International Law’s Past: Philosophical, Methodological and Theoretical Issues” (26–27 March 2013, proceedings in course of publication).


The book here under review proceeds in four chapters entitled, respectively, “The Civilization of a Christian Law”, “The Italian Legal Doctrine in the European Debate”, “Waiting for International Law” and “The Dark Side of International Law. It ends with a 32-page bibliography and an Index of the 14 judicial cases reported, of manuscripts discussed and names cited. Manuscripts come from the Archives of the “Museo Centrale del Risorgimento” of Rome and from the “Historical Archive” of the Italian Ministry of Foreign Affairs.

Chapter 1 opens by clarifying the reason why the focus of the book is on the nineteenth century. It does so by citing Bruno Paradisi and David Kennedy, two authors who, although quite different in methodology and intentions, are united by the idea that international law needs a thorough exploration of the nineteenth-century legal doctrine. Nuzzo’s book discusses several nineteenth-century scholars in Chapter 1, starting with Friedrich Carl von Savigny, as will be discussed below. In the opening section of the chapter, in particular, Nuzzo clarifies his overall thesis centred on the ambiguous relationship between the construction of a “science” of international law and Western colonialism (at 7). The “new science” of international law at the time, in his own words, presented itself as “historical, Christian, systematic, positive . . . as the unit of measurement of the civilised world” claiming at the same time, “by virtue of its Christian roots, a universal vocation capable of overcoming the borders of the Occident and to reconcile the distinctions between us and them which anyway continued creating” (at 9).

Nuzzo nicely shows the paradoxes of Savigny’s effort to emancipate law from the political will by relying on historical necessity and people’s conscience, thereby ambivalently introducing a de-historicizing element, with legal doctrine (as well as the emerging “science of law”) taking the task of interpreting and representing the conscience of the people (at 9–11). Public international law appeared to Savigny a “positive” albeit imperfect law within the Christian-European civilization which was open to non-Europeans but only as a sort of moral (or “pre-legal”) code (at 12–13). Nuzzo then discusses the construction of the emerging science of international law (as a systematic, historical and positive, Christian-European investigation) in Friedrich von Martens (at 14–15), Theodor Schmals (at 15–17), Johann Ludwig Klüber (at 17–18), Henry Wheaton (at 18–23), James Kent (at 23–25), James Reddie (at 39–41), August Wilhelm Heffter (at 41–43), Carl Kalterborn (at 43–49), Fyodor Fyodorvich Martens (at 49), Ottfried Nippold (at 50), Franz von Liszt (at 50) and Erich Kaufmann (at 51). The point in these pages is Nuzzo’s showing that international law was conceived by such writers as a “positive” law “scientifically”

4 Savigny’s contribution was in-depth discussed in the article mentioned in supra note 3.