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Scope, Scale and Humility in the History of International Law

RANDALL LESAFFER

> General legal history is, for good reasons, concerned with all legal developments of the past regardless both of where they appeared, and also of whether or not they prevailed over the longer term. The history of international law has no reason for proceeding otherwise.[1]

Scope

For over a century, from the second half of the nineteenth to almost the end of the twentieth century, a single master narrative overshadowed the historiography of international law. It located the roots of international law in the rise of the sovereign state in early modern Europe and exalted its unfolding and global expansion as contributions towards the progression of peace, justice and civilisation. This narrative placed the writing of history radically at the service of modern international law. Its emergence was contemporary with the consolidation of modern international law as an autonomous academic discipline and it was, in terms of disciplinary turfs, the work of legal scholars rather than of historians.

Recently, the Belgians François Laurent (1810–87) and his student Ernest Nys (1851–1920) have been singled out as the pioneers of international law's modern historiography.[2] Laurent, Belgium's leading civil lawyer of the

[1] Wolfgang Preiser, 'History of international law, basic questions and principles' in Rüdiger Wolfrum and Anne Peters (eds.) *Max Planck Encyclopedia of Public International Law*, vol. 4 (3rd edn, Oxford: Oxford University Press 2012) 896–902, at 898–9.

[2] Martti Koskenniemi, 'A history of international law histories' in Bardo Fassbender and Anne Peters (eds.), *The Oxford Handbook of the History of International Law* (Oxford: Oxford University Press 2012) 943–71, at 943–4; Martti Koskenniemi, 'Histories of international law: significance and problems for a critical view', *Temple International and Comparative Law Journal*, 27 (2013) 215–40, at 220–1.

nineteenth century, penned an eighteen-volume history of international relations and law under the double titles of *Histoire du droit des gens et des relations internationales* and the grander *Études sur l'histoire de l'humanité*.[3] While it was rather a study of international relations and society than of international law and was imprinted with Laurent's idiosyncratic readings of cultural history and philosophy, the massive work pushed the agenda of humanity's progress. In order to attain its final goal of unity and solidarity, humanity had to go through the transitional phase of its divisions into nations and states, the setting for its slow and gradual maturation from classical Antiquity onwards. After finishing the series, Laurent went on to pen the thirty-three volumes of his survey of Belgian civil law and an eight-volume series on private international law.[4] His *Principes de droit civil* remained the most authoritative statement of Belgian private law until the middle of the twentieth century. Although it was presented as a commentary on the Belgian civil code in the style of the French-Belgian exegetic school, it was an attempt at pouring doctrinal law into a systemic mould based on general principles and clear conceptions and drew on historical insights in the doctrinal development of the learned law since Roman times. More than Laurent's personal readings of international law's history, Laurent's *opus magnum* on civil law influenced the methodological outlook of Ernest Nys, and through him that of mainstream historiography of international law.[5]

After his studies in law and philosophy at Ghent, Nys continued his education at Heidelberg, Leipzig and Berlin, where he came into contact with the German traditions of historical jurisprudence and Pandect science, but also with the legal historical work of, among others, Theodor Mommsen (1817–1903). Nys became professor at the Faculty of Law of the Université libre de Bruxelles in 1885, where he took on the course on the law of nations upon the death of the Swiss Roman and international lawyer Alphonse Rivier (1835–98).[6] Among the

[3] The four first volumes appeared under the title *Histoire du droit des gens et des relations internationales* (Ghent: L. Hebbelynck and J.-B Merry 1850); from Volume 5 onwards *Études sur l'histoire de l'humanité* became the lead title but the older one still appeared as well (2nd edn, Ghent: Méline, Cans et Compagnie 1855–70).

[4] François Laurent, *Principes de droit civil* (33 vols., Brussels: Bruylant 1869–78); François Laurent, *Le droit civil international* (8 vols., Brussels: Bruylant, 1880–2).

[5] Dirk Heirbaut, 'Weg met De Page? Leve Laurent? Een pleidooi voor een andere kijk op de recente geschiedenis van het Belgische privaatrecht', *Tijdschrift voor Privaatrecht*, 54 (2017) 267–322; Dirk Heirbaut, 'Principes de droit civil (Principles of Private Law) 1869–1878 François Laurent (1810–1887)' in Serge Dauchy, Georges Martyn, Heikki Pihlajamäki and Alain Wijffels (eds.), *The Formation and Transmission of Western Legal Culture. 150 Books That Made the Law in the Age of Printing* (Cham: Springer 2016) 388–91.

[6] Henri Rolin, 'Notice sur Ernest Nys: Biographie', *Revue de l'université de Bruxelles*, 4 (1951–2) 349–57.

leading international lawyers from around the turn of the twentieth century, Nys was the one who applied himself most to the history of the field. His major text on the subject, *Les origines du droit international* (1894), offers a survey of the doctrinal development of international law through scholarly writings, starting with those of the late medieval civilians, canonists and theologians. With this, he attempted to embed the intellectual history of international law into the standard narrative of the history of the civil law tradition, which takes off with the rediscovery of the Digest in the eleventh century and the emergence of classical canon law in the twelfth century. His textbook on international law also provided the reader with a brief analysis of the historical development of the most important doctrines and institutions in European scholarship. His *oeuvre*, including his numerous historical contributions to the *Revue de droit international et de législation comparée*, forms a gold mine of information on the doctrinal history of the law of nations and many of its more and less well-known intellectual protagonists.[7]

The profound historical work of Nys was not widely followed, nor did the history of international law blossom into a significant sub-branch of legal history until the very end of the twentieth century. Laurent and Nys are most relevant to the emergence and development of the master narrative of the historiography of modern international law for being representative of its major ideological, liberal–progressive thrust, and its methodological focus on doctrine. Rather than through dedicated historical work, the master narrative was further forged and presented through historical writings by international lawyers who were ancillary to their expositions of international law, most clearly so in historical introductions to textbooks on international law.[8] This master narrative was only slowly and patchily fleshed out in general surveys of the history of international law or thematic studies. These too, by and large, were the work of international lawyers.[9] The narrative proved very

[7] Ernst Nys, *Les origines du droit international* (Brussels and Paris: Alfred Castaigne and Thorin et fils 1894); Ernst Nys, *Le droit international. Les principes, les théories, les faits* (1904–6, 2nd edn, Brussels: Weissenbruch 1912); Frederik Dhondt, 'L'histoire, parole vivante du droit? François Laurent en Ernest Nys als historiografen van het volkenrecht' in Bruno Debaenst (ed.), *De Belle Époque van het Belgisch Recht* (Bruges: Die Keure 2016) 91–115; Martti Koskenniemi, 'Histories of international law: dealing with Eurocentrism', *Rechtsgeschichte*, 19 (2011) 152–76, at 152–4.

[8] For a classic example, Lassa Oppenheim, *International Law. A Treatise*, 2 vols. (2nd edn, London: Longmans, Green and Co. 1912) vol. 1, 45–104.

[9] Early examples include Thomas Alfred Walker, *A History of the Law of Nations* (Cambridge: Cambridge University Press 1899); Cornelis van Vollenhoven, *The Three Stages of the Law of Nations* (The Hague: Martinus Nijhoff 1919); Cornelis van Vollenhoven, *Du droit de paix. De iure pacis* (The Hague: Martinus Nijhoff 1932). See

persistent and often impervious to challenges raised by in-depth historical studies.[10] Although it has been subject to radical and mounting revisionist criticism since the 1990s, it has not yet been replaced by another. Until the 2010s, general surveys, even if they took much of this criticism on board, retained as their backbone the old narrative core of the birth and emergence of international law in the European early modern age and nineteenth-century global expansion.[11]

In the traditional master narrative of the history of international law, three strands from mid- and late nineteenth-century legal and historical scholarship were woven together. First, its framers conceptually reduced the understanding of international law to that of modern public international law, which exclusively applies to relations between sovereign, equal states. They insisted on the separation and autonomy of public international law from private law, including transnational and private international law.[12] They largely adhered to the basic tenet of international legal positivism that denied the obligatory character of natural law and restricted international law to the rules to which states had consented through treaties and customary law. In consequence, they shrank the scope of international law's history to the direct antecedents of modern public international law and celebrated its emancipation from natural law and general jurisprudence, which applied to both states and

Ignacio de la Rasilla, *International Law and History. Modern Interfaces* (Cambridge: Cambridge University Press 2021) 20–30; Raymond Kubben, 'Completing an unfinished jigsaw puzzle: Cornelis van Vollenhoven and the study of international law' in Luigi Nuzzo and Milos Vec (eds.), *Constructing International Law. The Birth of a Discipline* (Frankfurt am Main: Vittorio Klostermann 2012) 483–522.

[10] Peter Haggenmacher's brilliant study on the continuous development of jurisprudence from the Late Middle Ages to Grotius, while widely applauded, did not slay the myth of the Renaissance origins of legal scholarship with regard to the law of nations. His major point became a point of contestation in Grotius studies but was, until very recently, largely ignored in grand narratives of the history of international law. Peter Haggenmacher, *Grotius et la doctrine de la guerre juste* (Paris: Presses universitaires de France 1983).

[11] E.g. Dominique Gaurier, *Histoire du droit international. De l'antiquité à la création de l'ONU* (Rennes: Presses universitaires de Rennes 2014); Stephen C. Neff, *Justice among Nations. A History of International Law* (Cambridge, MA and London: Harvard University Press 2014); Ian Shaw, *International Law* (8th edn, Cambridge: Cambridge University Press 2017) 10–31. Only in very recent years has late medieval legal scholarship begun to gain more than a marginal place in long-range surveys of the intellectual history of the European law of nations. Dante Fedele, *Naissance de la diplomatie moderne (XIIIe–XVIIe siècles). L'ambassadeur au croisement du droit, de l'éthique et de la politique* (Baden: Nomos Verlag 2017); Martti Koskenniemi, *To the Uttermost Parts of the Earth. Legal Imagination and International Power 1300–1870* (Cambridge: Cambridge University Press 2021).

[12] Hersch Lauterpacht, *Private Law Sources and Analogies of International Law (with Special Reference to International Arbitration)* (London: Longmans, Green and Co. 1927) 1–87.

individuals alike. For this, they continued to credit Hugo Grotius (1583–1645) and his seminal *De jure belli ac pacis* (1625), as some writers on the law of nations from the eighteenth century had done before.[13]

Second, unlike earlier historians of international law such as Friedrich Carl van Moser (1723–98), Robert Ward (1765–1846) and Henry Wheaton (1785–1848), they rewrote the story of the European emergence and progression of the law of nations from the perspective of universal history.[14] These earlier writers of the law of nations had been Eurocentric in their focus on the historical development of the public law of Europe, but they claimed to be writing the particular history of a regional legal tradition. Modern international lawyers, from the times of Laurent onwards, considered the rise of the sovereign state and the development of the law of nations as blazing the trail of the whole of humanity towards ever greater levels of peace, justice and civilisation. More than the development of a particular system of political and legal order, the historical development of the modern state system and of its international law in Europe and the West was understood in terms of the gradual unfolding and exploration of universal, timeless truths and values.[15] With this, the historiography of international law followed in the footsteps of the writers of general universal histories from the late eighteenth and the nineteenth centuries who had placed Europe at the head of humanity's progress and saw the European-style state as its vector.[16]

[13] Oppenheim, *International Law*, vol. 1, 87–8; Samuel Rachel, *De jure naturae et gentium dissertationes* (1676, The Classics of International Law, 2 vols., Washington: Carnegie Institution of Washington 1916) vol. 2, 1–4.

[14] Friedrich Carl von Moser, *Beyträge zu dem Staats- und Völcker-Recht und der Geschichte* (4 vols., Frankfurt: J.C. Gebhard 1764–72); Robert Ward, *An Enquiry into the Foundation and History of the Law of Nations in Europe from the Time of the Greeks and Romans, to the Age of Grotius* (2 vols., Dublin: P. Wogan, P. Byrne, W. Jones and J. Rice 1795); Henry Wheaton, *History of the Law of Nations in Europe and America from the Earliest Times to the Treaty of Washington, 1842* (New York: Gould, Banks & Co. 1845).

[15] Tilmann Altwicker and Oliver Diggelmann, 'How is progress constructed in international legal scholarship?', *European Journal of International Law,* 25 (2014) 425–44; Gustavo Gozzi, 'History of international law and Western civilization', *International Community Law Review*, 9 (2007) 353–73; Jennifer Pitts, *Boundaries of the International. Law and Empire* (Cambridge, MA and London: Harvard University Press 2018) 124–84.

[16] Patrick Conrad, *What Is Global History?* (Princeton: Princeton University Press 2016) 18–25; Marnie Hughes-Warrington, 'Writing world history' in David Christian (ed.), *The Cambridge World History*, vol. 1 (Cambridge: Cambridge University Press 2015) 41–55, at 46–8; Dominic Sachsenmaier, 'The evolution of world histories' in Christian, *The Cambridge World History*, vol. 1, 56–83, at 64–6; Michael Lang, 'Evolution, rupture, and periodization' in Christian, *The Cambridge World History*, vol. 1, 84–109, at 84–91; Jürgen Osterhammel, 'World history' in Alex Schneider and Daniel Woolf (eds.), *The Oxford History of Historical Writing*, vol. 5 (Oxford: Oxford University Press 2011) 93–112, at 93–6.

Third, the historiography of international law was deeply influenced by the tenets of positivist methodology that permeated the burgeoning discipline of modern international law. The theory and methodology of international law were in turn tributary to the legal theory of Friedrich Carl von Savigny (1779–1861), the Berlin professor of Roman law who was the father of the historical school and the forerunner of Pandect science.[17] Savigny's theory of law and historical jurisprudence not only dominated German legal scholarship, as well as legal history, during the nineteenth century, but also held wide international resonance throughout both civil- and common-law jurisdictions. This was in particular the case in the United States.[18] The development of international law into an academic discipline was methodologically driven by the scientific paradigm of construing the field of knowledge into a stable, coherent, internally consistent and complete system on the basis of general principles and clearly defined conceptions. It was Savigny's followers from the German Pandect science who were most insistent and successful in the translation of the general paradigm of scientific system building into a disciplinary programme for law. It was this programme which was copied by international lawyers. These international legal scholars declared themselves, in the absence of a legislative authority, responsible for bringing order to the mass of scholarly writings, treaties and customs, discerning what constituted the conceptions, rules, institutions and principles of international law and forging it into a system. Like the German students of private law and followers of Savigny, they saw this as a necessary step towards codification. This scientific paradigm drove international lawyers towards writing systematic textbooks, and towards an instrumental study of international law's past development. The past was the empirical treasure trove to search for the conceptions and principles that would form the building blocks of the system.[19] Moreover, the scientific concern with conceptions and principles explains the focus on doctrinal developments and scholarly writings to the detriment of practice in the historiography of international law – a focus which has persisted until very recently.

[17] Peter Stein, *Roman Law in European History* (Cambridge: Cambridge University Press 1999) 116–23; James Q. Whitman, *The Legacy of Roman Law in the German Romantic Era. Historical Vision and Legal Change* (Princeton: Princeton University Press 1990).
[18] Robert W. Gordon, 'The common law tradition in American legal historiography' in Robert W. Gordon, *Taming the Past. Essays on Law in History and History in Law* (Cambridge: Cambridge University Press 2017) 17–49.
[19] Lassa Oppenheim, 'The science of international law: its task and method', *American Journal of International Law*, 2 (1908) 313–56.

The conceptual reduction of international law to modern public international law was accompanied by the parallel reduction of the purview of its historiography to the direct antecedents of this modern version of international law. For all its universalist claims and eschatological end-of-history implications, the master narrative was in fact the particular narration of a single form of 'international law' from human history. The state-centric and Eurocentric understanding of international law dictated the scope of its historical narrative, which was hence heavily shrunk in terms of chronology and geography.[20] In terms of chronology, most nineteenth-century international lawyers situated the origins of the sovereign state, and thus of their field of study, in the seventeenth century. For the origins of international law they commonly indicated the publication of Grotius' treatise on the laws of war and peace in 1625 and the Peace Treaties of Westphalia of 1648. These two events allegedly marked the emancipation of the law of nations – the antecedent of modern public international law – as the preserve of states from the law at large, and from the logic of private law in particular. Writers who pre-dated Grotius, such as the late medieval civilians, canonists and theologians and the Spanish neo-scholastics, were relegated to the role of precursors of Grotius.[21] The American international lawyer James Brown Scott (1866–1943) designed The Classics of International Law, an edition of historical texts ranging from the fourteenth century to the nineteenth, around a triple division of precursors, Grotius and followers.[22] His later endeavours to replace Grotius as 'founder' of international law with the Spanish theologian Francisco de Vitoria (*c.* 1483–1546), for which he successfully enlisted the aid of the Spanish international lawyer Camilo Barcia Trelles (1888–1977), assured the expansion of the chronological range of the intellectual history of international law into the sixteenth century and the inclusion of the Spanish neo-scholastics, as well as humanist writers, but also deepened the divide from the late Middle Ages.[23] Notwithstanding the

[20] Ignacio de la Rasilla speaks of a double exclusionary bias. See his 'The shifting origins of international law', *Leiden Journal of International Law*, 28 (2015) 419–40.

[21] Ernest Nys, *Le droit de la guerre et les précurseurs de Grotius* (Brussels: Murquardt 1882); Karl von Kaltenborn, *Die Vorläufer des Hugo Grotius auf dem Gebiete des ius naturae et gentium sowie der Politik im Reformationszeitalter* (Leipzig: G. Maier 1848).

[22] Paolo Amorosa, *Rewriting the History of the Law of Nations. How James Brown Scott Made Francisco de Vitoria the Founder of International Law* (Oxford: Oxford University Press 2019) 127–32.

[23] *Ibid.*, 136–85; Ignacio de la Rasilla, *In the Shadow of Vitoria. A History of International Law in Spain (1770–1953)* (Leiden and Boston: Brill/Nijhoff 2018) 149–56, 171–73, 196–223; Ignacio de la Rasilla, 'Camilo Barcia Trelles in and beyond Vitoria's shadow (1888–1977)', *European Journal of International Law*, 31 (2020) 1433–49; Randall

more balanced treatment of late medieval and early modern writers in the mature works of Nys, the writings of late medieval civilians and canonists, which were actually of great influence on the diplomatic and legal practice of their day, as well as crucial sources for the writers of the sixteenth and early seventeenth centuries, including Grotius,[24] have been almost completely ostracised from the master narrative of international law's history.[25] From around the middle of the twentieth century, some German scholars argued for the emergence of the European state system around 1300, but this had little resonance in international academic circles.[26] In terms of geography, the historical emergence and development of the law of nations, the direct antecedent of modern international law, was situated in Christian Europe. From there it was considered to have gradually spread over the world, starting in the late eighteenth century with the independence of the United States of America (1776–83). This global expansion occurred either through the double process of formal colonisation and decolonisation or through reception of international law in the context of informal imperialism.

After the First World War, a few individual legal historians and international lawyers made attempts at expanding the chronological and geographical scope of international law's history by including pre-early modern and non-European legal developments. They were, however, hardly able to dent the state-centrism and Eurocentrism of the master narrative. Drawing on the work of, among others, Henry Sumner Maine (1822–88), the Russian British legal historian Paul Vinogradoff (1854–1925) introduced a typology of different systems of international law, which had appeared throughout human history, and pleaded for their comparative investigation.[27] The idea

Lesaffer, 'The cradle of international law: Camilo Barcia Trelles on Francisco de Vitoria at The Hague (1927)', *European Journal of International Law*, 31 (2020) 1451–62.

[24] Haggenmacher, *Grotius et la doctrine de la guerre juste*.

[25] Randall Lesaffer, 'Roman law and the intellectual history of international law' in Anne Orford and Florian Hoffmann (eds.), *The Oxford Handbook of the Theory of International Law* (Oxford: Oxford University Press 2016) 38–58; James Muldoon, 'The contribution of the medieval canon lawyers to the formation of international law', *Traditio*, 28 (1972) 483–97.

[26] Starting with Wilhelm G. Grewe, *The Epochs of International Law* (Berlin etc.: Walter de Gruyter 2000), whose grand survey actually dates back to his habilitation in 1941. The first print, *Epochen der Völkerrechtsgeschichte* (Leipzig: Köhler & Amelang 1943–5) was never published because of the war. Its first actual publication had to await until 1984 (Baden: Nomos Verlag 1984). Ruth Lambertz-Pollan, *Auf dem Weg zu Souveränität und Westintegration (1948–1955). Der Beitrag des Völkerrechtlers und Diplomaten Wilhelm Grewe* (Baden: Nomos Verlag 2016) 23.

[27] Paul Vinogradoff, *Historical Types of International Law. Lectures Delivered in the University of Leiden* (Leiden: E.J. Brill 1923); William E. Butler and Vladimir A. Tomsinov, 'Sir Paul Vinogradoff: a biographical sketch' in William E. Butler (ed.), *On the History of*

of a comparative study of different systems or types of international law was picked up variously later in the twentieth century by a few international lawyers such as Georg Schwarzenberger (1908–91) but rarely pursued seriously.[28]

Among Western comparatist historians of international law from the decades after the Second World War, the German Roman lawyer Wolfgang Preiser (1903–97) may be ranked first. Preiser pleaded for the expansion of the historiography of international law to pre-early modern times as well as to the non-European world. His own research focused on the history of international law in the Middle East and the Mediterranean during Antiquity. While he acknowledged that most doctrines and institutions of the early modern law of nations were not the product of a continuous development from pre-classical and classical Antiquity onwards, he pointed nevertheless to the remarkable resilience of certain general underlying ideas and conceptions, such as natural law, just war or interstate friendship. He considered this sufficient to speak of a tradition two and a half millennia long of 'European law of nations'.[29] Preiser, however, did not want to restrict the scope of international law historiography to the European tradition. He advocated including any occurrence of international law from the human past within its ambit and pleaded for the comparative study of all systems and traditions of international law from various regions and periods. For this, he proposed a more general and inclusive understanding of international law. According to him, one could speak of an international order with international law if three conditions were fulfilled: (1) the co-existence of different independent 'states' that mutually recognised one another as members of that order, (2) the existence of sufficiently intense relations to necessitate their legal regulation and (3) the recognition that these regulations were binding and created rights and obligations.[30] Preiser set himself on the path

International Law and International Organization. Collected Papers of Sir Paul Vinogradoff (Clark, NJ: The Lawbook Exchange 2009) 15–34.

[28] Georg Schwarzenberger, *The Dynamics of International Law* (Abingdon: Professional Books 1976) 32–55; A.M. Connelly, 'The history of international law: a comparative approach', *Year Book of World Affairs*, 32 (1978) 303–19.

[29] Wolfgang Preiser, 'Über die Ursprünge des modernen Völkerrechts' in *Internationalrechtliche und staatsrechtliche Abhandlungen. Festschrift für Walter Schätzel zum 70. Geburtstag* (Düsseldorf: Verlag Gebr. Hermes 1960) 373–87.

[30] Wolfgang Preiser, *Die Völkerrechtsgeschichte. Ihre Aufgaben und Methoden* (Wiesbaden: Franz Steiner Verlag 1964); Preiser, 'Basic questions and principles', 897–9; Heinhard Steiger, 'Universality and continuity in international public law?' in Thilo Marauhn and Heinhard Steiger (eds.), *Universality and Continuity in International Law* (The Hague: Eleven International Publishing 2011) 13–43, at 22–4.

of global comparison by authoring a study on international law in pre-Columbian America, Oceania, sub-Saharan Africa, the Indian subcontinent and Eastern Asia.[31]

The pull of the kind of comparatist world history of international law that Preiser proposed remained marginal. Studies on ancient and medieval European law were few and far between until the twenty-first century.[32] Preiser's own effort at studying non-European regional systems of international law only found a follow-up in a series of historical surveys in the first and subsequent editions of the *Encyclopedia of Public International Law*.[33]

The bigger push towards widening the scope of the historiography of international law beyond Europe did not come from Western comparatist historians, but emerged out of the decolonisation wave after the Second World War. From the 1950s onwards, lawyers from what later became known as the TWAIL (Third World Approaches to International Law) movement challenged the Eurocentrism of traditional historiography of international law by claiming that other regions had their own international law prior to the imperial encounter with Europe and the introduction of Western international law.[34] The first generation of post-colonial international lawyers from the Third World endeavoured to harness international law to the cause of their newly independent countries and strove to amend it in the service of more equal and fair international political and economic relations. However, they did not fundamentally challenge the underlying

[31] Wolfgang Preiser, *Frühe völkerrechtliche Grundlagen der außereuropäischen Welt. Ein Beitrag zur Geschichte des Völkerrechts* (Wiesbaden: Franz Steiner Verlag 1976).

[32] Bruno Paradisi, *Storia del diritto internazionale nel medio evo* (2 vols., Milan and Naples: Giuffrè and Jovene 1940–50); Bruno Paradisi, *Civitas maxima. Studi di storia del diritto internazionale* (2 vols., Florence: Leo S. Olschki 1974); Giulio Vismara, *Scritti di storia giuridica*, vol. 7, *Communità e diritto internazionale* (Milan: Giuffrè 1989); Karl-Heinz Ziegler, *Die Beziehungen zwischen Rom und dem Partherreich. Ein Beitrag zur Geschichte des Völkerrechts* (Wiesbaden: Franz Steiner Verlag 1964); Karl-Heinz Ziegler, *Fata iuris gentium. Kleine Schriften zur Geschichte des europäischen Völkerrechts* (Baden: Nomos Verlag 2008).

[33] In the most recent edition, Rüdiger Wolfrum and Anne Peters (eds.) *Max Planck Encyclopedia of International Law* (Oxford: Oxford University Press 2012): Thomas A. Mensah, 'International law, regional developments: Africa'; Mohammad Fadel, 'International law, regional developments: Islam'; Vicente Moratta Rangel, 'International law, regional developments: Latin America'; Shotaro Hamamoto, 'International law, regional developments: East Asia'; Diane A. Desierto, 'International law, regional developments: South and South-East Asia'.

[34] James Thuo Gathii, 'TWAIL: a brief history of its origins, its decentralized network and a tentative bibliography', *Trade and Development*, 3 (2011) 26–64; De la Rasilla, *International Law and History*, 117–51.