

des réseaux des principaux réformateurs hollandais et belges ; et l'analyse du parcours intellectuel et géographique transnational du Gantois Auguste Wagener, un des principaux réformateurs du pays.

Le deuxième point fort de l'ouvrage consiste dans le regard pluridisciplinaire qu'il propose. La collaboration de pédagogues et d'historiens à sa réalisation, examinant un même objet d'étude de points de vue différents et complémentaires, permet de combiner de façon très féconde les perspectives. On constate qu'il est impossible de séparer enjeux éducatifs et enjeux sociétaux et on acquiert une vision riche et complète de l'action menée par la bourgeoisie réformatrice de la fin de ce siècle.

Le troisième atout de l'ouvrage est la place qu'il ménage à la dimension européenne des phénomènes étudiés. Bien que les contributions partent d'un cas belge, le plus souvent la perspective s'élargit progressivement grâce à une comparaison avec les pays voisins, la France et, surtout, les Pays-Bas (chapitre 6 et 8), ainsi que, plus largement, d'autres pays européens (chapitre 7, 8 et 9). Le croisement des regards (national, international) et des échelles (micro et macro) permet de mettre en évidence à quel point l'action des réformateurs belges s'inscrit dans un mouvement général plus large, et d'identifier la façon dont s'opère la circulation des idées et des personnes.

Par la rigueur intellectuelle des analyses qu'il contient, la fécondité de l'approche et la richesse de son contenu, *The Civilising Offensive* est un excellent exemple d'histoire croisée transnationale qui peut servir de source d'inspiration à de nombreux chercheurs.

**Mara Donato Di Paola**

VINCENT GENIN

***Le laboratoire belge du droit international. Une communauté épistémique et internationale des juristes (1869-1914) (Collection de la classe des lettres et des sciences, IVe série, t. XIX)***

Bruxelles : Académie Royale des Sciences, des Lettres et des Beaux-Arts de Belgique, 2018, 218 p (further: I)

and

VINCENT GENIN

***Incarnier le droit international. Du mythe juridique au déclassement international de la Belgique (1914-1950) (Enjeux internationaux; 43)***

Paris : Peter Lang, 2018, 246 p (further: II).

The history of international law has known an exceptional expansion since the early 2000s. Previously on the margins of legal history, public international law and intellectual history, the study of 'inter-polity' law as a theoretical construct and argumentative practice has presently expanded to an exciting interdisciplinary shared object of reflection. The publication of journals (*Journal of the History of International Law*) and book series with major international houses (*Studies in the History of International Law/Brill*, *The History and Theory of International Law/Oxford*), major works of reference<sup>1</sup> and new comprehensive studies<sup>2</sup> show the vivid debates and renewed attention for law as an important interpretation grid of international politics, empire and global history.

Both volumes by Vincent Genin are drawn from his Doctoral thesis in contemporary history (ULiège, 2017) under the supervision of Philippe Raxhon. Mr. Genin is a historian and not a lawyer. Yet, his contribution delves deeper than traditional historical research on peace movements or diplomatic history. The former often does not do more than social or intellectual history, the latter

1. BARDO FASSBENDER AND ANNE PETERS (eds.), *The Oxford Handbook of the History of International Law*, Oxford, 2012 ; ALEXANDER ORAKHELASHVILI (ed.), *Research Handbook on the Theory and History of International Law*, Cheltenham, 2011.

2. DOMINIQUE GAURIER, *Histoire du droit international*, Rennes, 2014 ; EMMANUELLE JOUANNET, *Le droit international libéral providence. Une histoire du droit international*, Brussels, 2011 ; STEPHEN C. NEFF, *Justice Among Nations. A History of International Law*, Cambridge, MA and London, 2014.

frequently gets stuck in a dry evenemential narrative, or transforms into a purely cultural approach, without attention to the necessary rigor and logic of a legal analysis.

Up to the late 19<sup>th</sup> century, international law was a shared object for philosophers, statesmen and a restricted circle of law professors. Hence the methodological and theoretical difficulty for historians wading into this territory. As the American scholar Mary L. Dudziak rightfully advises historians,<sup>3</sup> it is almost mandatory to be socialized in the academic community of lawyers in order to get acquainted with reasoning and source theory. This is all the more true for international law, where normativity (the binding nature of a principle, a treaty or any other kind of behavior or text) is fundamentally different from municipal, national law. States only have to accept self-acquainted norms. Sovereignty means freedom<sup>4</sup>. Constraints are the exception to this rule.

The current 'turn to history' in international law tends to attenuate this basic postulate, by construing international law's past as an hitherto insufficiently theorized consciousness (see also I, 108). Martti Koskenniemi's seminal *Gentle Civilizer of Nations* portrayed the 'Rise and Fall of international law, 1870-1960' as a political, militant enterprise<sup>5</sup>. At the end of the nineteenth century, the urge to bind Leviathan to norms brought a series of rules and regulations, of which the 1899 and 1907 Hague Conventions are the most notorious<sup>6</sup>. Koskenniemi tied this historical evolution to Critical Legal Studies: international law is a discourse accompanying practices of domination, produced by social actors whose mutual interactions are essential in interpreting formal sources. Moreover, if international lawyers forego the political nature of their very practices, they tend to

aggravate the current incremental rejection of the liberal project in which they are engaged.

Against this backdrop, the work accomplished by Vincent Genin is tremendous. His archival research has gone beyond Koskenniemi's initial thesis. Genin has written a history of lawyers as actors in the transformation of a legal discourse, with a depth incomparable to that of studies undertaken by lawyers. As emphasized in Koskenniemi's preface, Genin shows how a *prima facie* abstract notion of international law is rooted in specific, even local, social practices, and how this 'national' space (although interconnected with actors abroad) could generate a specific interpretation of the set of norms and sources that constitute international law (I, 18).

The author has received the Prize of the *Académie Royale des Sciences, des Lettres et des Beaux-Arts de Belgique* as well as the Prix Duroselle for the first volume, and the Prix Strasser of the *Institut de France* for the second volume. These recognitions are illustrative of the outstanding nature of the work. The major contribution resides in the second volume, where Genin shows how the experience of World War I and the difficulties of the League of Nations shaped a different attitude towards international law. The chapter on Fernand Dehousse (II, 153-207) is rich and fascinating. Genin cross-reads the traditional pantheon of interbellum legal minds (Hersch Lauterpacht, Hans Kelsen, Georges Scelle, Hans Kelsen) with the original adaptation of a Walloon regionalist, European federalist and defender of the League of Nations, who borrowed theoretical insights from Ernest Renan and Woodrow Wilson to criticize Pascuale Stanislao Mancini, founding father of the *Institut de Droit International* (IDI) (II, 169-170, 207). Further remarks are complementary to the

3. <http://wartimebook.blogspot.com/2014/07/a-legal-history-survival-guide.html>, last consulted on 8 April 2019.

4. JEAN COMBACAU, 'Pas une puissance, une liberté: la souveraineté internationale de l'État', in *Pouvoirs*, 1993, p. 47-58.

5. MARTTI KOSKENNIEMI, *The gentle civilizer of nations: the rise and fall of international law, 1870-1960*, Cambridge, 2001.

6. MAARTJE ABBENHUIS (et al., eds.), *War, Peace and International Order? The Legacies of the Hague Peace Conferences of 1899 and 1907*, London and New York, 2017.

author's perspective, and do not encroach on the merits of this impressive work.

First, the author seems to adhere to the Gentle Civilizer-thesis, according to which an historical sociology of lawyers would only be suitable from the late nineteenth century on. Yet, it is hard to sustain that international law as an academic subject and as a practice emerged *ex nihilo*. The appearance of *droit des gens* courses predates 1870 by centuries, and, for modern Belgium, by decades, as the author indicates using courses at the ULB, Liège and Leuven (I, 77-81). It is telling that a course is set up in Liège in 1858, in order to influence the ministry of Foreign Affairs under Charles Rogier. Conversely, in the second volume, it is indicated that the purely theoretical background of new chairholders in '*droit des gens*' or international law post-1918 further distanced the Foreign Office from legal academia (II, 159).

I would argue -with most general works- that international law is as old as mankind itself, and is not restrained to academics,<sup>7</sup> or to the European continent<sup>8</sup>. *Ubi societas, ibi ius!* A society of states or political communities cannot exist without the use of legal arguments or 'legal politics'<sup>9</sup>. Here lies the main difference in approach between the author of the present review and the author of the work discussed. The latter focuses on connections and biographies of lawyers, whereas the former would be more interested in the actual legal arguments, irrespective of disciplinary or professional status, but weighed against the argumentative repository of the preceding centuries (cf. puzzling statements on the 18<sup>th</sup> century in I: 23 (enumerating d'Aguesseau as law of nations-author), 108 (on 'public

war')). Of course, the second volume, which draws heavily on activist international lawyers' (Mahaim/Dehousse) aversion for 'old diplomacy', can explain the use of a more narrow and specific paradigm, '*à l'aune du droit international*' (e.g. II, 159). Likewise, the decline in historical contributions to the *Revue de droit international et de législation comparée* from 1921 on (II: 115, 122) is taken to illustrate the rupture, just as criticism portraying Spaak and Leopold III's 'return to neutrality' as a return to the perceived lawless 19<sup>th</sup> century system. The author's views seem to have merged with those of his protagonists.

Secondly, the debate on Belgian neutrality in the 19<sup>th</sup> century is taken as a given, but not analyzed in its legal-theoretical essence. The author mentions Descamps's *La neutralité de la Belgique* (1902) as the lawyer's major work (I, 86), but does not grasp its essence. Rather than the issue of 'assistance' to neutralized countries, Descamps focused on the possibility of an emerging general '*pacigérat*', or the structural renunciation of the use of force, as exemplified in the 1867 neutralization of Luxemburg<sup>10</sup>. This was a major amendment of the preceding doctrine, theorized by Wilhelm (Guillaume) Arendt. The latter taught in the Arts faculty, but produced the first seminal treatise on Belgian perpetual neutrality in 1845, at royal request<sup>11</sup>. Arendt is not mentioned, although his son Léon (Louis) is (I: 81, 88). At other instances, the author is too strong in his affirmations. When discussing Nys's position in favour of the Congo Free State (I, 98-99), little attention is devoted to the theory of recognition (major doctrinal *topos*), concluding that international law did not matter much according to Nys. I would restrict this to the treatise's lim-

7. THOMAS G. OTTE, *The Foreign Office Mind: the making of British foreign policy, 1865-1914*, Cambridge, 2011.

8. ROBERT KOLB, *Esquisses d'un droit international public dans les anciennes cultures extra européennes*, Paris, 2010.

9. LAUREN BENTON, 'Beyond Anachronism: Histories of International Law and Global Legal Politics', in *Journal of the History of International Law* (forthcoming, 2019), arguing that 'vernacular international law' should draw historians' attention, since law and institutions are social phenomena, and concepts need to be considered as bottom-up constructs. The study of legal argumentation by historians has proven very fruitful, e.g. NICOLAS DROCOURT & ERIC SCHNACKENBOURG (eds.), *Thémis en diplomatie. Droit et arguments juridiques dans les relations internationales*, Rennes, 2016.

10. FREDERIK DHONDT, 'Neutralité permanente, interprétations mutantes: la neutralité belge à travers trois traités de juristes', in *Tijdschrift voor Rechtsgeschiedenis* 2018, p. 188-214.

11. HORST LADEMACHER, *Die belgische Neutralität als Problem der europäischen Politik 1830-1914*, s.l., 1971, p. 122-125.

ited scope and its *ad hoc* usefulness to discard the limitations imposed by the Berlin Final Act.

The narrative of this study, focusing on an epistemic community of two to three generations of lawyers, confirms a turning point around 1870. The author does justice to the more difficult phases in the IDI's development, and to the reluctance of the Foreign Ministry at the Hague Conferences. However, I wonder whether the essentialization of François Laurent (I, 111 : 'germanophilia' and freemasonry) in relation to Ernest Nys accurately reflects the continuity between the two men. In my view, Laurent's *Histoire du droit des gens et des relations internationales* is a seminal work in the intellectual orientation and upbringing of Ernest Nys, and has determined Laurent's pupil to devote such an extensive part of his time to purely historical research<sup>12</sup>. A detailed, in-depth analysis of the articles published in *Revue de droit international et de législation comparée* is still lacking, and requires a team of researchers. The author rightfully argues that the enormous archival and print material for the timeframe studied (1870-1940) leads to inevitable incidentally punctual treatments. Maria De Waele's exhaustive dissertation on Belgium's geopolitical ambitions (1989) (II, 99) and Jan Velaers's *Albert I* (2009) (II, 108) are remarkably absent.

These two volumes constitute a major enrichment of the international scientific community's understanding of the Belgian 'contribution' to present-day international law, with internal repercussions. Genin's collective intellectual history of lawyers is narrowly intertwined with an erudite knowledge of society. The links between a fast evolving institutional environment, caused by (in Maurice Bourquin's words) the 'irreversible social and economic transformations' at the turn of the century (II, 127) and the development of transnational debates (suffrage, social legislation, freemasonry and religion, nationalism), are essen-

tial to understand the evolution of one of society's irreplaceable elites : lawyers.

**Frederik Dhondt**

MICHEL DUMOULIN, CATHÉRINE LANNEAU  
LANNEAU (ED.)

*La biographie individuelle et collective  
dans le champ des relations internationales*  
(*Enjeux Internationaux*, Vol. 39)

Bruxelles, P.I.E. Peter Lang, 2016, 230 p.

Het betreft hier de acta van het gelijknamige colloquium van de contactgroep 'Belgique et mondes contemporains' van het FNRS aan de universiteit Luik in februari 2014. In hun inleiding wijzen de editors op de hernieuwde aandacht voor wetenschappelijke biografieën in een maatschappelijke context. Een onderdeel hiervan vormen de biografieën van diplomaten. Ook zij hebben slechts zin indien zij het individuele aan het collectieve verbinden. In dit boek vinden we drie methodologische en historiografische bijdragen en zes *case studies* (Belgische diplomaten, figuren uit de administratieve en politieke elite van Buitenlandse zaken, buitenlandse diplomaten in België en het geval Luxemburg).

Stanislas Jeannesson van de universiteit Nantes opent met een pleidooi voor een dubbele aanpak: de individuele, 'exceptionele' biografie en de prosopografische studie naar de collectieve kenmerken. Michel Dumoulin heeft het over niet-ambtelijke, neergeschreven getuigenissen van Belgische diplomaten om te komen tot een 'psycho-geografische typologie' (vertrouwen en wantrouwen tussen volkeren) van de wereld. De schrijvende diplomaten van de 19<sup>e</sup> eeuw tot heden passeren de revue (een corpus van 27 getuigenissen alleen al na 1945). Herman Portcarero, o.m. ambassadeur in Cuba, wordt wel over het hoofd gezien (quid met het twijfelgeval van 'gevolmachtigd minister' Marx Gijssen?) maar uiteraard blijven de conclusies van de bijdrage geldig. Dumoulin komt inderdaad tot een typologie van 'globe trotters' (vooral voor

12. FREDERIK DHONDT, "L'histoire, parole vivante du droit?" François Laurent en Ernest Nys als historiografen van het volkenrecht', in BRUNO DEBAENST EN DIRK HEIRBAUT (eds.), *De Belle Époque van het Belgisch Recht*, Brugge, 2016, p. 91-115.