

**WRITING THE WORLD THROUGH LAW:
LAWYERS MAKING HISTORY 1758-1870 (WORKING TITLE)**

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International law is a forward looking discipline whose mainstream practitioners and scholars are hesitant about dwelling on the past or remaining immobilized by theoretical discussions. International legal problems today require evermore complex levels of expertise due to the fragmented areas in which the discipline has been divided. At least a semblance of solution solving agreements must be reached among states and international organizations that will (hopefully) bring protections and improvements for the better present and future of individuals across the globe. In this scenario, “history” or a reflection on the discipline’s past seems to hinder the progress that is perceived to have been gradually obtained in the last sixty years.

On the other hand, this distaste for international law’s relation to history disregards how much the discipline is constructed by its own historical narratives and how historical argumentation is often at the center of the international lawyer’s doctrinal positions, legal claims or judgements. Precisely, this book examines the intersection of the law of nations and the disciplines of international law and history with a focus on the early nineteenth century. By international law as a discipline, I understand that it is not limited to the notion that it is a system of norms that regulates the relation between States, but rather understood as a contentious field of discursive argumentation constructed both by legal practitioners and scholars which looks to interpret and regulate the normative relations among peoples, nations and/or states.

By entangling international law with history, I am also aware of the historical consciousness that is particular to the lawyers writing during this period. The writers that I study not only reflect on what is the law of nations is but also what is “history” and why it is important for them to write a history of this law at their particular moment. As such, these writers are also conceptualizing a past with a new sense of expectation for the future of what will become known as “international law”.

A second aspect of this book looks on how historical narratives were used by lawyers and scholars as supportive of legal (thus authoritative) arguments. Consequently, “facts” or historical events become relevant in the way that they are accepted or left out of the histories of international law, and thus of the uses that these histories are given to support normative structures.

A third axis seeks to understand the uses of historical narrative in international law as a tool for constituting, interpreting and differentiating peoples or individuals in the nineteenth century. From this perspective, “Europe” is understood more as a hegemonic practice and a language than as a region, with the implicit recognition that it is both inescapable but also needs to be destabilized.

Therefore, this book hopes to challenge the understanding of Europe as the centre and point of departure for global progress by exposing the relationship between territorial politics, religious beliefs, socio-cultural environments, regional identities and

transnational ideas of law in eighteenth and early nineteenth century histories. I begin with a history of law, arts and sciences published in 1758 by Antoine Yves Goguet, a Parlement of Paris magistrate of the Ancien Régime. Goguet's theory of legal evolution was taken seriously by many prominent thinkers of the first half of the 19th century. The second chapter looks at the history written by Robert Ward, a British lawyer terrified of the French revolution's consequences. He wrote a history of the law of nations that proposed a European law as the only possible normative relation among Christian nations. The third chapter is placed in the middle of the 19th century, when Henry Wheaton, a U.S. diplomat presented a history of the law of nations that included the United States as an equal member in 'the community of civilized nations.' The fourth chapter looks at the work and life of François Laurent a law professor in the newly independent Kingdom of Belgium who began publishing his eighteen volume series on the history of the law of nations and international relations in 1850. The unity of mankind for Laurent, an anti-socialist, anti-clerical Protestant liberal, was founded on a religious faith in opposition to the role of the Roman Catholic church. Seven of his eighteen volumes directly addressed the history of the Catholic church and its relation to the state and international relations. The fifth chapter looks at the historical work of the Argentine lawyer Carlos Calvo and the Spanish lawyer Rafael Maria de Labra Cadrana. Calvo published an eleven-volume collection of treaties and other documents on the 'revolution of Latin America' beginning with the legitimation of the Spanish conquest (1493), passing through the recognition of independence, and ending with the contemporary independent statehood of the former colonies. Calvo sought to demonstrate that there was a long standing tradition of international law in the region so as to give the new states equal standing before the European nations. Labra, born in Cuba of Spanish parents, wrote more than forty articles and books on the colonial question for Europe, with particular interest in Spain and its colonial past and present. Finally, the book ends with the story of Augusto Pierantoni, whose histories of international law in Italy (1869) and in the nineteenth century (1876) were written in the context of the Italian resurgimento and the institutionalization of international law.

With my research, I demonstrate that there was no homogeneous notion of "Europe" in the burgeoning histories written during this period and to confirm the ERERE project's vision of the 19th century as lived in terms of a series of geopolitical, legal, economic, social, cultural and religious tensions by its actors in the transitions from monarchical towards parliamentary rule, from informal to formal empire.

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