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# Camilo Barcia Trelles in and beyond Vitoria's Shadow (1888–1977)

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## Abstract

*Credited with having fostered the renaissance of Francisco de Vitoria and the School of Salamanca in international law circles in the interwar period, Camilo Barcia Trelles has largely fallen into oblivion along with most Spanish international law professors of the Spanish Civil War generation. The first part of this article provides an outline of the long career of Barcia Trelles against the background of the radically transformed domestic and international context of the interwar years and the aftermath of World War II in both Spain and Europe. The second part surveys three key themes of Barcia Trelles' 60-year long contribution to the study of international law and international politics. First, it analyses his early interest in the process of regionalism in Latin America and the role of North American foreign policy in the region. This is followed by an analysis of Barcia Trelles's attention to the study of the Spanish classics of international law during the interwar period, and, finally, by an overview of his approach to the study of international law in the light of international politics during the Cold War. The conclusion briefly engages with the legacy of Barcia Trelles' life and works in the European tradition of international law.*

God gave me the opportunity to vindicate my motherland across three worlds, bringing to my lips this great truth: that the origin of modern international law is, indisputably, Catholic and Spanish.

Camilo Barcia Trelles, 'Fray Francisco de Vitoria y la Carta orgánica de San Francisco'<sup>1</sup>

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<sup>1</sup> Barcia Trelles, 'Fray Francisco de Vitoria y la Carta orgánica de San Francisco', in V. Beltrán de Heredia, C. Barcia Trelles and R. García Villoslada (eds), *Fray Francisco de Vitoria, fundador del derecho internacional moderno 1546–1946* (1946) 91, at 96.

## 1 Introduction

Between 1927 and 1939, Camilo Barcia Trelles (1888–1977) taught four courses at The Hague Academy of International Law. This scholarly feat is revealing of the academic reputation enjoyed by this Spanish professor who fostered, together with James Brown Scott, the renaissance of Francisco de Vitoria and the School of Salamanca in international law circles in the interwar period.<sup>2</sup> However, Barcia Trelles and his works, along with those of almost every other member of the cosmopolitan generation of the ‘silver age of international law’ in Spain,<sup>3</sup> whose careers were tragically impacted by the Spanish Civil War, have largely fallen into oblivion.<sup>4</sup> In contrast to this lacuna in the historical memory of international law in Spain,<sup>5</sup> the reputation of the 16th-century Dominican friar and *Prima* Professor of Sacred Theology at the University of Salamanca has grown exponentially in the canon of the classics of international law in recent times. The large body of academic work which now offers a diverse body of interpretations and re-interpretations of the significance of Vitoria’s landmark contribution to the law of peoples<sup>6</sup> has, furthermore, revitalized the study of the life, times and works of those responsible for Vitoria’s modern fame in international law.<sup>7</sup>

This introductory overview of the life, works and times of Camilo Barcia Trelles is divided into three sections. Section 2 provides an outline of Barcia Trelles’s long career, from his formative years at the universities of Madrid, Brussels, Berlin and Bern, to some turning points against the background of radical transformations on the domestic and international stages before World War II and in its aftermath in both Spain and Europe. Section 3 surveys three central themes of Barcia Trelles’s 60-year-long contribution to the study of international law. First, it analyses his early interest in the process of regionalism in Latin America and the role of North American foreign policy in the region. This is followed by an analysis of Barcia Trelles’s attention to the study of the Spanish classics of international law during the interwar period, and, finally, by an overview of his approach to the study of

<sup>2</sup> Carl Schmitt considered that C. Barcia Trelles had provided ‘the strongest breakthrough for the world at large regarding Francisco de Vitoria’. See C. Schmitt, *The Nomos of the Earth in the International Law of the Ius Publicum Europaeum* (G. L. Ulmen, trans., Telos, 2003), at 118; originally published as C. Schmitt, *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum* (1950).

<sup>3</sup> The ‘Silver Age of Spanish Culture’ (1898–1936) was a period of flourishing in the arts, literature and scientific developments that paralleled the intellectual and artistic achievements of the ‘Spanish Golden Age’ in the 16th and first half of the 17th centuries.

<sup>4</sup> But see I. de la Rasilla, *In the Shadow of Vitoria: A History of International Law in Spain, 1770–1953* (2017).

<sup>5</sup> For an exploration of possible underlying reasons, see De la Rasilla, ‘Playing Hide and Seek with “Vergangenheit, die Nicht Vergehenwill” (“a Past that Will Not Pass”) in the History of International Law’, in I. Ziemele and G. Ulrich (eds), *How International Law Works in Times of Crisis* (2019) 223.

<sup>6</sup> See, e.g., Koskenniemi, ‘Vitoria and Us: Thoughts on Critical Histories of International Law’, 22 *Rechtsgeschichte – Legal History (Rg)* (2014) 119; J. M. Beneyto and J. Corti (eds), *At the Origins of Modernity: Francisco de Vitoria and the Discovery of International Law* (2018).

<sup>7</sup> P. Amorosa, *Rewriting the History of the Law of Nations: How James Brown Scott Made Francisco de Vitoria the Founder of International Law* (2019). See also J. P. Scarfi, *The Hidden History of International Law in the Americas: Empire and Legal Networks* (2017).

international law in the light of international politics during the Cold War. The conclusion puts the intellectual legacy and contemporaneity of Barcia Trelles's life and works in a historical perspective.

## 2 Turning Points, Changing Contexts

Camilo Barcia Trelles, son of the owner of one of the most reputed law firms in the northern province of Asturias, was born in Vega de Ribadeo in 1888. He was also the younger brother of Augusto Barcia Trelles (1881–1961), who would come to serve as Minister of Foreign Affairs in the republican government on the day of General Franco's uprising against the second Spanish Republic in 1936. Camilo followed in the footsteps of his older brother, graduating in law *summa cum laude* in 1909 from the University of Oviedo, which at the time was one of the most important poles for the spread of the progressive educational creed of the *Institución Libre de Enseñanza* (ILE) among international law scholars in Spain.<sup>8</sup> After graduating, he went on to complete his doctoral studies in international law at the Central University of Madrid. His doctoral supervisor was Joaquín María Fernández Prida (1863–1942),<sup>9</sup> one of the most notable members of the first professional generation of Spanish international law professors and a future Spanish minister of foreign affairs.<sup>10</sup>

During his doctoral studies,<sup>11</sup> Barcia became one of the very first Spanish international law students to benefit from the fellowship programme of the Spanish 'Junta de ampliación de estudios e investigaciones científicas' (Board for the Extension of Studies and Scientific Research).<sup>12</sup> Commonly known as JAE, it was a national research council established in 1907 as part of a widespread programme of educational reforms which, following the national identity crisis triggered by the Spanish-American War, aimed to end Spain's intellectual segregation from Europe.<sup>13</sup> Over the following years, Barcia studied in Brussels and Berlin sponsored by JAE. During his stay in Brussels (1911–1913), he worked with Ernest Nys (1851–1920) who, as part of his

<sup>8</sup> Rozas and Sáenz de Santa María, 'La aportación de la Facultad de Derecho de la Universidad de Oviedo al progreso del derecho internacional', in S. M. Coronas González (ed.), *Historia de la Facultad de Derecho, 1608–2008* (2010) 495.

<sup>9</sup> Montero, 'Fernández Prida, Joaquín María (1863–1942)' (5 May 2012), available at <https://bit.ly/2LizYmm>.

<sup>10</sup> On the first professional generation, see further De la Rasilla, 'El estudio de la historia del derecho internacional en el corto siglo XIX español', 23 *Rg* (2013) 48.

<sup>11</sup> For biographical details on C. Barcia Trelles, this article relies on Miaja de la Muela, 'Perfiles humanos y científicos del profesor Barcia Trelles', in Universidad de Santiago de Compostela (ed.), *Estudios de derecho internacional: Homenaje al profesor Camilo Barcia Trelles* (1958) 15 (hereinafter 'Homenaje a Barcia Trelles'); Cebreiros Álvarez, 'Barcia Trelles, Camilo (1888–1977)' (2014), available at <https://bit.ly/37v2ikE>.

<sup>12</sup> See Espaliú Berdud, 'La Junta de ampliación de estudios e investigación científica y el derecho internacional', in Y. Gamarra and I. de la Rasilla (eds), *Historia del pensamiento iusinternacionalista español del siglo XX* (2012) 153.

<sup>13</sup> See the commemorative website created on the occasion of JAE's centenary: JAE CSIC 2010: Cien años de la creación de los primeros centros de la Junta para Ampliación de Estudios e Investigaciones Científicas, available at [www.jae2010.csic.es](http://www.jae2010.csic.es).

research into the origins of the law of nations<sup>14</sup> and the 16th-century Spanish jurist-consults' contribution to it,<sup>15</sup> since the early 1880s<sup>16</sup> had highlighted the Salamanca School's 'humane' treatment of 'Indians'.<sup>17</sup> Barcia's encounter with Nys, whom Martti Koskenniemi has called the 'first professional historian of international law',<sup>18</sup> firmly impressed on the young Spanish doctoral student the growing appreciation of the Spanish classics in erudite European international law circles. During his time in Berlin (1913–1914), Barcia studied under Franz von Liszt, Erich Kaufmann, Heinrich Triepel and Ferdinand von Martitz, and produced a number of works on the early efforts at codification of international law.<sup>19</sup> After obtaining his doctoral degree with the highest marks with a dissertation on the Austrian annexation of Bosnia-Herzegovina in 1915, Barcia went on to pursue further post-doctoral studies at the universities of Bern and Zurich (1916–1917). In Switzerland, he developed a keen interest in the role of imperial policies in shaping international law. This is a theme to which he would often come back during his long and prolific academic career.<sup>20</sup>

By the time Barcia was appointed to his first chair of Public and Private International Law at the University of Murcia in 1920, he was already a very well-travelled and accomplished young international law scholar. As such, he was the ideal embodiment of the second generation of professional international law scholars in Spain: elite offspring of the programme of educational and university reforms that the 're-generacionist movement' had introduced in Spain through the 1900s and 1910s. The same year, in 1920, soon after taking up the chair of Public and Private International Law at the University of Valladolid, Barcia founded the Section of Americanist Studies. This centre would become a major research pole for the intertwining of 'Americanist' themes and the study and updating of the doctrines of the Spanish *seconda scholastica* on the *ius gentium* during the interwar years. Over the next decade and a half, Barcia frequently travelled throughout Europe, the United States and Latin America. He also wrote copiously, as we shall later see, on the 16th-century Spanish school of international law.

The decisive turning point in Barcia's academic career was the tercentenary of the publication of Hugo Grotius's *De iure belli ac pacis* in 1925. The academic festivities that accompanied the commemoration of Grotius's landmark work inspired

<sup>14</sup> E. Nys, *Les origines du droit international* (1894).

<sup>15</sup> E. Nys, *Le droit des gens et les anciens jurisconsultes espagnols* (1914). Nys also wrote the introduction to the volume dedicated to Francisco de Vitoria in the Classics of International Law series. See Nys, 'Introduction', in F. de Vitoria, *De Indis et de Iure Belli Relectiones* (1917).

<sup>16</sup> E. Nys, *Le droit de la guerre et les précurseurs de Grotius* (1882).

<sup>17</sup> E. Nys, *Les droits des indiens et les publicistes espagnols* (1890); Nys, 'Les publicistes espagnols du XVII<sup>e</sup> siècle et les droits des indiens', 21 *Revue de droit international et de législation comparée* (1889) 532.

<sup>18</sup> Koskenniemi, 'A History of International Law Histories', in B. Fassbender and A. Peters (eds), *Oxford Handbook of the History of International Law* (2012) 701, at 701.

<sup>19</sup> See 'Pensiones cuyo disfrute ha terminado en el bienio 1914–1915 (I)', in *Memoria correspondiente a los años 1914 y 1915* (1916), para. 15 (mentioning Barcia Trelles's 1914 research paper 'El derecho de la guerra marítima, según las conferencias de La Haya y Londres'), available at <https://bit.ly/2WtXaac>.

<sup>20</sup> Barcia Trelles, *Significación originaria de la doctrina de Monroe* (1916); and Barcia Trelles, 'Pangermanismo: Ensayo acerca de un imperialismo de raza', cited in Cebreiros Álvarez, *supra* note 11, at 3.

the establishment of the Association Francisco de Vitoria in Spain in 1926.<sup>21</sup> This association fit into the new international programme of cultural expansion and political propaganda that the foreign policy establishment of the authoritarian regime of General Primo de Rivera aimed to use to boost 'Hispanic vitality spread around the world'.<sup>22</sup> It also counted on the support of a broad spectrum of international legal scholars in Spain and, in particular, of the Minister of Foreign Affairs, José Yanguas Messía. The Grotian festivities equally provided the context for James Brown Scott, the longstanding editor-in-chief of the *American Journal of International Law* and influential director of the International Law Division of the Carnegie Endowment for International Peace,<sup>23</sup> to become aware of Barcia's commemorative speeches in which the latter had defended the role of Francisco de Vitoria as the 'founder' of international law.<sup>24</sup> Soon afterwards, J. B. Scott, who was also a member of the Hague's *curatorium*, wrote to invite Barcia to prepare his first course for the Hague Academy of International Law on Francisco de Vitoria in 1927.<sup>25</sup>

The fruitful relationship between Scott and Barcia over the following years went on to mark a turning point in the fame of Francisco de Vitoria and the Salamanca School. During his one-year stay as a research fellow at the Carnegie Endowment in Washington in 1928–1929, Barcia wrote his second course for the Hague Academy, tracing the Monroe Doctrine back to Vitorian doctrines.<sup>26</sup> Barcia and Scott, who as editor of the collection of the 'Classics of International Law' had already delved into the study of the 'precursors of Grotius' and the School of Salamanca,<sup>27</sup> also helped each other to publish extensively on the Spanish classics over the following years.<sup>28</sup> After Scott became the president of the American Society of International Law (1929–1939), he continued to devote himself to championing the cause of Francisco

<sup>21</sup> The mission of the Association was to become 'a Spanish institution that could disseminate the Vitorian doctrine and would place it in the context of current legal sciences and diverse schools and institutions these sciences represent'. See De la Rasilla, *supra* note 4.

<sup>22</sup> See, e.g., Gómez-Escalonilla, 'Un siglo de diplomacia cultural española', 12 *Documento de Trabajo del Real Instituto Elcano* (2014) 10, available at <https://bit.ly/3rIF5U3>.

<sup>23</sup> On James Brown Scott, see also C. R. Rossi, *Broken Chain of Being: James Brown Scott and the Origins of Modern International Law* (1998); and, more broadly, F. L. Kirgis, *The American Society of International Law's First Century: 1906–2006* (2006).

<sup>24</sup> See, in detail, Amorosa, *supra* note 7, at 161–172.

<sup>25</sup> See Barcia Trelles, 'Francisco de Vitoria et l'école moderne du droit international', 17 *Recueil des cours de l'Académie de droit international de La Haye (RCADI)* (1927) 133. See further Lesaffer, 'The Cradle of International Law: Camilo Barcia Trelles on Vitoria at The Hague (1927)', 31 *EJIL* (2020) 1451. For Scott's correspondence with Barcia Trelles, see Amorosa, *supra* note 7, at 161–172.

<sup>26</sup> Barcia Trelles, 'La doctrine de Monroe dans son développement historique particulièrement en ce qui concerne les relations interaméricaines', 32 *RCADI* (1930) 391. See Scarfi, 'Camilo Barcia Trelles on the Meaning of the Monroe Doctrine and the Legacy of Vitoria in the Americas', 31 *EJIL* (2020) 1463.

<sup>27</sup> A course Scott had taught at Georgetown in 1926 was later published as J. B. Scott, *The Spanish Origin of International Law: Lectures on Francisco de Vitoria (1480–1546) and Francisco Suarez (1548–1617)* (1928).

<sup>28</sup> J. B. Scott, *Francisco de Vitoria, fundador del derecho internacional moderno* (1928) (with a Preface by Barcia Trelles).

de Vitoria as the ‘true founding father’ of the law of nations,<sup>29</sup> a campaign that bore fruit, as Carl Schmitt noted, ‘far beyond the scholarly disciplines of history and international law’.<sup>30</sup> This left Hugo Grotius, according to Scott, as a ‘populariser in the best sense of the word’ and, therefore, ‘a member of the Vitorian or, as it is more usually termed, the Spanish school’.<sup>31</sup> In 1932, on the occasion of the 400th anniversary of *De Indis*, Scott was again the driving force behind the establishment of the Association Internationale Vitoria-Suarez<sup>32</sup> within the framework of the Institut de droit international (IDI), with Barcia Trelles at his side as a founding member.

The outbreak of the Spanish Civil War marked a second turning point in Barcia Trelles’s life and academic career. The day after General Franco’s coup against the government of the second Spanish Republic, in which Barcia’s brother Augusto served as Minister of Foreign Affairs, Barcia was detained in Valladolid, a city which had immediately sided with the rebels, on the grounds of being a mason, anti-catholic, anti-national and anti-hierarchical. Over the following years, Barcia was subjected to a process of depuration,<sup>33</sup> which in 1939 resulted in only a minor sanction.<sup>34</sup> The relatively good resolution of his case, especially when compared to other cases of political repression suffered by academics, including international lawyers,<sup>35</sup> during the Spanish Civil War owed much to Barcia’s expression of adherence to Franco’s ‘national movement’.<sup>36</sup> It also owed much to the support and good offices<sup>37</sup> provided to his cause by some of his fellow international law colleagues in the Association Francisco de Vitoria<sup>38</sup> which, alongside the Institute Francisco de Vitoria in Salamanca, immediately

<sup>29</sup> See, e.g., J. B. Scott, *The Spanish Origins of International Law: Francisco de Vitoria and His Law of Nations* (1934) (hereinafter ‘Scott, *Francisco de Vitoria and his Law of Nations*’); J. B. Scott, *The Catholic Conception of International Law: Francisco de Vitoria, Founder of The Modern Law of Nations, Francisco Suarez, Founder of The Modern Philosophy of Law in General and in Particular of the Law of Nations: A Critical Examination and a Justified Appreciation* (1934).

<sup>30</sup> Schmitt, *supra* note 2, at 119.

<sup>31</sup> Scott, *Francisco de Vitoria and his Law of Nations*, *supra* note 29, at 10a.

<sup>32</sup> Association Internationale Vitoria-Suarez (ed.), *Vitoria y Suarez: Contribution des théologiens au droit international moderne* (1939).

<sup>33</sup> On purges within Spanish universities during and after the Spanish Civil War, see J. Claret Miranda, *El atroz desmoche: La destrucción de la Universidad española por el franquismo, 1936–1945* (2004), at 184 (mentioning Barcia Trelles’s case).

<sup>34</sup> Barcia’s sanction consisted in the suspension of employment and salary for two years, a forceful transfer – from Valladolid University to the University of Santiago de Compostela – along with the prohibition on applying for another position over five years, and disqualification for the exercise of management positions, or ones of trust in cultural and educational institutions. See Cebreiros Álvarez, *supra* note 11, at 2.

<sup>35</sup> A case in point was a disciple of Barcia Trelles, Adolfo Miaja de la Muela, holder of the international law chair at the University of Santiago de Compostela, who was condemned to 12 years in prison. See Petit, ‘Miaja de la Muela, Adolfo (1908–1981)’ (2014), available at <https://bit.ly/3nHt27d>.

<sup>36</sup> See Cebreiros Álvarez, *supra* note 11, at 2.

<sup>37</sup> For the very important role played by personal ‘endorsements and connections’ in Barcia Trelles’ depuration process, see J. Claret Miranda, ‘La repressió franquista a la universitat espanyola’ (2004) (PhD thesis, Barcelona Pompeu Fabra University) at 365–366, available at [www.tdx.cat/bitstream/handle/10803/7463/tjcm1de1.pdf](http://www.tdx.cat/bitstream/handle/10803/7463/tjcm1de1.pdf).

<sup>38</sup> On the role of the ‘Association Francisco de Vitoria’ during the Spanish Civil War, see De la Rasilla, *supra* note 4, at 258.

became an 'essential pole of legitimizers of the 1936 uprising',<sup>39</sup> and in particular of the former minister, Yanguas Messía, by now a highly influential, staunch supporter of General Franco's rebellion, who was appointed to the diplomatically strategic post of ambassador to the Holy See in 1938. During the war, Barcia wrote a series of works on Spanish foreign policy, which, as he himself argued before the depuration commission, favoured the 'national cause' of General Franco.<sup>40</sup>

His older Republican brother now exiled in Argentina,<sup>41</sup> Barcia's depuration process was closed with a declaration of 'absolute rehabilitation' in 1942,<sup>42</sup> and Barcia was reinstated as Chair of Public and Private International Law at the law school of the University of Santiago de Compostela where he remained until his retirement in 1958. Although the Spanish Civil War had brought exile,<sup>43</sup> imprisonment<sup>44</sup> and even death<sup>45</sup> to many international law scholars, Barcia's integration into the new regime was far from uncommon among the elite circle of Spanish international legal scholars.<sup>46</sup> In fact, as we shall see later, Barcia became a particularly dominant figure within the new regime's international law elite.<sup>47</sup>

Over the following years, Barcia did not completely give up his study of the Spanish *seconda scholastica* and natural law. This line of study went on to live through a true golden age among Spanish international law scholars, with contributions by notable foreign legal scholars like Carl Schmitt, during the 'autarky period' in Spain in the 1940s and early 1950s. However, Barcia's own contributions to the study of the so-called 'Spanish school of *ius gentium*' gradually became fewer and far between, with the bulk of the 'National-Catholicist' historiography of international law being instead developed by one of his most notable disciples, Luis García Arias (1921–1973).<sup>48</sup> With

<sup>39</sup> I. Forcada Barona, 'La influencia de la religión católica en la doctrina internacionalista española del período de entreguerras (1918–1939)', in I. de la Rasilla and Y. Gamarra (eds), *Historia del pensamiento iusinternacionalista español del siglo XX* (2012) 231.

<sup>40</sup> See specially C. Barcia Trelles, *Puntos cardinales de la política internacional española* (1939). See also Cebeiros Álvarez, *supra* note 11, at 2.

<sup>41</sup> In Argentina, Augusto continued to occupy ministerial positions for the Republican government in exile. In 1939, he was condemned in absentia in Spain by the Special Tribunal for the Repression of Masonry and Communism to 30 years in prison. He died in Argentina in 1961, never having returned to Spain.

<sup>42</sup> Claret Miranda, *supra* note 37, at 281.

<sup>43</sup> The Spanish judge at the PCIJ, Rafael Altamira, is a case in point. See, e.g., Gamarra, 'Rafael Altamira y Crevea (1866–1951): The International Judge as Gentle Civilizer', 14 *Journal of the History of International Law (JHIL)* (2012) 1.

<sup>44</sup> See the case of Adolfo Miaja de la Muela: Petit, *supra* note 35.

<sup>45</sup> This was the case of Quintiliano Saldaña García-Rubio, the author of the first course on international criminal justice at The Hague Academy in 1925. See also De la Rasilla, 'International Criminal Justice as Universal Social Defence: Quintiliano Saldaña (1878–1938)', in F. Megret and I. Talgren (eds), *At the Dawn of a Discipline: International Criminal Justice and Its Early Exponents* (2020) 118.

<sup>46</sup> In fact, all the Spanish legal scholars who, like Barcia Trelles, had delivered courses at The Hague Academy of International Law since its establishment in 1923 supported Franco's cause during the war. See also De la Rasilla, *supra* note 4.

<sup>47</sup> See, e.g., the *Festschrift* dedicated to him to celebrate his 25 years as university chair holder of international law, Universidad de Santiago de Compostela (ed.), *Colección de estudios en homenaje al profesor Camilo Barcia Trelles en sus bodas de plata de catedrático de derecho internacional* (1945).

<sup>48</sup> See L. García Arias, *Adiciones sobre la doctrina hispanica del derecho internacional a la historia del derecho internacional de Arthur Nussbaum* (1948).

the exception of some sporadic contributions on specific international law themes, the majority of Barcia's academic work had by then moved towards the areas of international politics and foreign policy – in particular, to the study of US foreign policy – and geopolitical analysis of the great new strategic chessboard configured by the Cold War. In 1959, Barcia retired as chair at Santiago de Compostela, an occasion which was commemorated with a voluminous *Festschrift* in his honour<sup>49</sup> and, some months later, with the award of the title of 'Honorary Dean' of the law school he had served since 1942. However, inspired by what one of his most notable disciples, Adolfo Miaja de la Muela, called Barcia's life-long commitment to the study of the 'constants of international politics',<sup>50</sup> Barcia continued publishing very extensively until almost the time of his death (aged 89) on the eve of Spain's transition to democracy in 1977.<sup>51</sup>

### 3 A Spanish Tradition-Maker in International Law and Beyond

The interplay between the development of Barcia Trelles's thought on international law and the domestic and international context that underwent radical transformations during his lifetime may be illustrated with reference to three central themes in Barcia's 60 years of academic work. The first of these central themes goes back to his study of the process of regional integration in Latin America and the influence of North American imperialism in the region in the early 1920s. This was a topical subject at the time of the rising phenomenon of regionalism in the newly formed League of Nations and of pan-American projects of regional codification. Furthermore, this phenomenon coincided with the dawn of the professional organization of a diplomatic culturally based foreign policy towards Latin America in Spain in the early 1920s.<sup>52</sup>

In 1925, Barcia Trelles wrote a seminal book in Spanish on the effects of what he termed 'oil imperialism'<sup>53</sup> on international peace, in which he criticized 'the influence of US oil companies on the spread of unscrupulous, pervasive imperialism, which places American foreign policy in the service of private interests, even when the latter may become involved in the sphere of independent sovereignties'.<sup>54</sup> This original monograph on the new, oil-driven American imperialism is highly representative of a series of works written by Spanish authors at that time about, as Pardo notes, 'what was seen as both a threat to the cultural community and political independence in the region and to the Hispanic-American expectations of Spain'.<sup>55</sup> In addition, Barcia's books on

<sup>49</sup> *Homenaje a Barcia Trelles*, *supra* note 11.

<sup>50</sup> Miaja de la Muela, 'In Memoriam: Camilo Barcia Trelles (1888–1977)', 31 *Revista española de derecho internacional (REDI)* (1978–1979) 9, at 11.

<sup>51</sup> For Barcia's very long list of publications after his retirement, see Cebreiros Álvarez, *supra* note 11, at 6–7.

<sup>52</sup> Gómez-Escalonilla, *supra* note 22.

<sup>53</sup> C. Barcia Trelles, *El imperialismo del petróleo y la paz mundial* (1925).

<sup>54</sup> *Ibid.*, at 248.

<sup>55</sup> Pardo, 'La política norteamericana', 49 *Ayer* (2003) 14, at 22.



American foreign policy in the aftermath of World War I<sup>56</sup> and regional and continental trends in the Americas<sup>57</sup> also date from the same period. After his encounter with J. B. Scott in 1927, Barcia further deepened his research on 'Americanist' themes as a research fellow in the United States. His residence in Washington informed his second Hague Academy course on *La doctrine de Monroe dans son développement historique, particulièrement en ce qui concerne les relations interaméricaines*, in which he traced the antecedents of the Monroe Doctrine to Francisco de Vitoria's writings on 'a new world and a new law'.<sup>58</sup> Barcia's time in the United States also informed his Spanish-language publications, in particular *La Constitución Norteamericana y la Sociedad de Naciones* (1930)<sup>59</sup> and *La Doctrina Monroe y el problema de la cooperación internacional* (1931).

Barcia's contribution to the renaissance of Francisco de Vitoria and the School of Salamanca in intellectual, international law circles in the interwar period was closely intertwined with the development of his study of 'Americanist' subjects in the 1920s. This second central theme in Barcia's extensive *opus* spanned two different periods. The first and fundamental stage in Barcia's contribution to the Vitorian restoration was characterized by a liberal internationalist orientation between the wars.<sup>60</sup> The second and less substantial stage, during the period of Spain's international isolation in the 1940s and early 1950s, by contrast, offered a more glorified, nationalistic and Catholic vision of the central role of Vitoria and the School of Salamanca in the historical development of international law. The backbone of Barcia's contribution to the narrative of the Spanish origins of international law coincided with the four invitations to teach at The Hague Academy of International law that he received over a period of barely 12 years. In addition to his 1930 course on the Monroe Doctrine, which also touched on Vitorian themes, Barcia prepared three courses in French specifically on the Spanish School of *ius gentium*. These dealt with 'Francisco de Vitoria and the Modern School of International Law' (1927),<sup>61</sup> 'Francisco Suarez and the Spanish Theologians of the Sixteenth Century' (1933)<sup>62</sup> and, just after the end of the Spanish Civil War in 1939, with 'Vazquez de Menchaca and the 16th-Century Spanish School of International Law'.<sup>63</sup>

Barcia's remarkable oeuvre on the School of Salamanca, and on Vitoria as its presiding figure, was written against the propitious background of, and contributed to, a revival of natural law in international law. Indeed, the recovery of the Salamancan

<sup>56</sup> C. Barcia Trelles, *La política exterior norteamericana de la postguerra* (1925).

<sup>57</sup> C. Barcia Trelles, *La tendance continentale en Amérique* (1926).

<sup>58</sup> Barcia Trelles, 'La doctrine de Monroe dans son développement historique particulièrement en ce qui concerne les relations interaméricaines', 32 *RCADI* (1930) 391.

<sup>59</sup> C. Barcia Trelles, *La Constitución Americana y la Sociedad de Naciones* (1930).

<sup>60</sup> For a re-alignment of this perspective with J. B. Scott's agenda, see Amorosa, *supra* note 7, at 161–172.

<sup>61</sup> Barcia Trelles, *supra* note 25.

<sup>62</sup> Barcia Trelles, 'Francisco Suarez (1548–1617): Les théologiens espagnols du XVI<sup>e</sup> siècle et l'école moderne du droit international', 43 *RCADI* (1933) 385.

<sup>63</sup> C. Barcia Trelles, 'Fernando Vazquez de Menchaca (1512–1569): L'école espagnole du droit international du XVI<sup>e</sup> siècle', 67 *RCADI* (1939) 430. Most of these works also had editions in Spanish. See, e.g., C. Barcia Trelles, *Francisco de Vitoria, fundador del derecho Internacional moderno* (1928); C. Barcia Trelles, *Fernando Vázquez de Menchaca: Sus teorías internacionales, 1512–1569* (1940).

tradition was in tune with the efforts then made by international legal theorists across Europe to temper the excesses of the positivist method by making reference to a legal and moral ‘international community’ which, it was argued, may, beyond the consent of a sovereign state, provide the ultimate foundational basis for legitimizing the binding force of international law obligations. During the first ‘revival’ of Francisco Vitoria and the Salamanca School in the late 19th century, according to Koskenniemi, ‘the founders of the profession found among Spanish voices some they could associate themselves with’.<sup>64</sup> These developments took place during the peak of the European imperialist expansion of Africa and Asia. Similarly, in the aftermath of World War I, Vitoria and other authors of the School of Salamanca once again became a historical reference, and authors like Alfred Verdross<sup>65</sup> and Hersch Lauterpacht<sup>66</sup> found they could draw on them in developing their international legal theories.<sup>67</sup>

Barcia himself was well aware of the intellectual context of what he termed the ‘Vitorian restoration, which is not only explained by the wish to repair an injustice, but because new times need new ideal paths of reasoning’.<sup>68</sup> In his course on Francisco Suarez at The Hague Academy in 1933, Barcia examined whether it was possible to draw a comparison between the 16th-century Spanish internationalists and the modern school of international law.<sup>69</sup> For Barcia, the revival of theories of a modern ‘natural law of variable nature’<sup>70</sup> was a reflection of what he called the ‘existence of a common anxiety’,<sup>71</sup> which manifested in ‘an effort to get rid of the criterion of sovereignty, the survival of which in its classic conception is considered incompatible with any attempt at coordination of international life’.<sup>72</sup> Moreover, the revival of the Spanish universalist tradition, in which J. B. Scott saw ‘the germs of a major part of the system of international law’,<sup>73</sup> equally aligned with the concepts, ideals and goals that the League of Nations had made fashionable in the interwar period. These guidelines for a legally instituted international community, including the universal ‘peace through law’ project,<sup>74</sup> the concepts of just and unjust wars, the principle of self-determination, the equality of nations and the international right to trade, were all interpreted as being in conformity with Vitoria’s theses. Since his early work,

<sup>64</sup> See Koskenniemi, ‘Empire and International Law: The Real Spanish Contribution’, 61 *University of Toronto Law Journal* (2011) 1, at 4.

<sup>65</sup> Verdross, ‘Le fondement du droit international’, 16 *RCADI* (1927) 247.

<sup>66</sup> H. Lauterpacht, *The Function of Law in the International Community* (1933).

<sup>67</sup> See further De la Rasilla, ‘The Three Revivals of Francisco de Vitoria in the History of International Law’, in J. M. Beneyto, *Peace or Just War? The Influence of Francisco de Vitoria and Erasmus on Charles V and the Law of Nations* (2021) 15.

<sup>68</sup> Barcia Trelles, *supra* note 62, at 415.

<sup>69</sup> *Ibid.*, at 390–414.

<sup>70</sup> *Ibid.*, at 399.

<sup>71</sup> *Ibid.*, at 397.

<sup>72</sup> *Ibid.*

<sup>73</sup> Scott, ‘Francisco Suarez: his Philosophy of Law and of Sanctions’, 22 *Georgetown Law Journal* (1933–1934) 405, at 407.

<sup>74</sup> I. de la Rasilla and J. E. Viñuales (eds), *Experiments in International Adjudication: Historical Accounts* (2019).

Barcia had particularly highlighted the groundbreaking role of Vitoria in regard to the 'immortal principles of international law'<sup>75</sup> and how contemporary international tendencies – ranging from the international mandates established by the League of Nations<sup>76</sup> to international free trade,<sup>77</sup> right up to the principle of collective intervention in the name of international solidarity<sup>78</sup> – accorded with Vitoria's propositions.

By contrast, the second stage in Barcia's engagement with the Spanish classics took place in a deeply transformed political context in Spain in the wake of the Spanish Civil War. An obvious example of this changed political landscape was the first University Law issued by the new totalitarian state in 1943. This law presented Salamanca University and its famous historical school as emblems of a purist Spanish thought uncontaminated by pernicious foreign influences. The new University Law also made sworn allegiance to the principles of the Falangist national movement and the creed of National Catholicism preconditions for any academic appointments in Spain.<sup>79</sup> In this context, the official commemoration of the fourth centenary of Vitoria's death in 1946, in which Barcia actively participated,<sup>80</sup> became a very politicized event, that included the erection of a national monument to the 16th-century Dominican friar in Salamanca unveiled by General Franco, the papal ambassador to Spain and several ministers and representatives of the foreign diplomatic corps, as well as the issuance of a banknote with a portrait of Vitoria.<sup>81</sup>

The School of Salamanca's newly acquired political significance and symbolism in the Franco regime's portrayal of Spain as a stronghold of purist Catholic values which had effectively defeated communism led to a true explosion of works on the Spanish school of international law after the Spanish Civil War.<sup>82</sup> The many articles on Vitoria and the School of Salamanca published during the first years of *Revista española de Derecho internacional* (over the next decades featuring a portrait of Vitoria on the cover, and published originally under the auspices of the Instituto Francisco de Vitoria as part of the Spanish Council for Scientific Research (CSIC)) are prime examples of this academic tendency.<sup>83</sup> In addition to the multiple works written by Spanish authors on the School of Salamanca during this period, the most internationally famous foreign contributor to the 'Vitorian aftermath' of the 'fascist

<sup>75</sup> Barcia Trelles, *supra* note 25, at 135.

<sup>76</sup> *Ibid.*, at 194.

<sup>77</sup> *Ibid.*, at 206–218.

<sup>78</sup> *Ibid.*, at 223.

<sup>79</sup> Ley de 29 de julio de 1943 sobre ordenación de la Universidad española, 212 Boletín Oficial del Estado, 31 July 1943.

<sup>80</sup> Barcia Trelles, 'Francisco de Vitoria en 1946', 47–48 *Boletín de la Universidad de Santiago de Compostela* (1946) 91; Barcia Trelles, *supra* note 1; C. Barcia Trelles (ed.), *Francisco de Vitoria (MDXLVI–MCMXLVI)* (1947).

<sup>81</sup> Barredi Barandiaran, 'El Monumento a Francisco de Vitoria, Historia de su construcción', 25 *Sancho el Sabio* (2006) 165.

<sup>82</sup> García Arias, 'Bibliografía española de derecho internacional (1939–1947)', 1 *REDI* (1948) 271.

<sup>83</sup> See Remiro Brotons, 'El discreto encanto – y desencanto – de la Revista Española de Derecho Internacional (1948–1978)', in A. Miaja de la Muela (ed.), *Estudios de derecho internacional: Homenaje al Prof. A. Miaja de la Muela*, vol I (1979) 123.

mimesis' of international law in Spain<sup>84</sup> was Carl Schmitt. Schmitt's long-standing relationship with Spanish conservative circles since the 1920s further deepened during and immediately after the Spanish Civil War.<sup>85</sup> Schmitt gave a central role to Vitoria in *Der Nomos der Erde*<sup>86</sup> and went on to publish several other works on the Spanish classics.<sup>87</sup>

Barcia himself, cashing in on the credit and, probably eager to use the political protective cloak that his role as champion of Vitoria and the Spanish school in the interwar years provided him within the new Spanish political climate, published some more works on the history of international law<sup>88</sup> and the Spanish classics in the 1940s.<sup>89</sup> For instance, writing at a time when Spain was going through a period of international ostracism,<sup>90</sup> Barcia deployed Vitoria to criticize the international system ushered in by the UN Charter. He pointed out that 'never before had humanity followed a course that denoted such a clear antithesis of, and regression from, Vitorian doctrines as it did in 1946'.<sup>91</sup> However, the main bulk of Barcia's research had by then turned away from the *secunda scholastica* toward the study of the geopolitical underpinnings of the new international order of the Cold War.

Early in his academic career, Barcia was a frequent contributor of short commentaries on international events of significance to the weekly magazine *España*. Founded by José Ortega y Gasset, it was a remarkable, yet short-lived, progressive publication

<sup>84</sup> The expression 'the Vitorian aftermath of the fascist mimesis of international law in Spain' makes reference to how the Franco regime foregrounded the Catholic Spanish traditional thought associated with the School of Salamanca as part of a strategic adaptation to the evolution of World War II in the early 1940s. This strategic realignment, which resulted in the traditional right progressively filling the gap left by the decline of the 'new right' of the Spanish Falangists, was meant to help to anchor the Franco regime's ideological portrayal of Spain as the last bastion of traditional European Catholic values in the wake of World War II. See further De la Rasilla, 'The Fascist Mimesis of Spanish International Law and Its Vitorian Aftermath, 1939–1953', 14 *JHIL* (2012) 207, at 210.

<sup>85</sup> See, e.g., Schmitt, 'El concepto de imperio en el derecho internacional' (Javier F. Conde trans.), 1 *Revista de Estudios Políticos* (1941) 83.

<sup>86</sup> Schmitt, *supra* note 2.

<sup>87</sup> See, e.g., Schmitt, 'La justificación de la ocupación de un nuevo mundo (Francisco de Vitoria)', 2 *REDI* (1949) 13. See further Beneyto, 'Camilo Barcia Trelles on Francisco de Vitoria: At the Crossroads of Carl Schmitt's *Grossraum* and James Brown Scott's "Modern International Law"', 31.4 *EJIL* (2020) 1477.

<sup>88</sup> See, e.g., Barcia Trelles, 'Westphalia – Tres siglos después', 1 *REDI* (1948) 303; Barcia Trelles, 'Fray Serafín de Freitas y el problema de la libertad oceánica', 130 *Revista general de marina* (1946) 331.

<sup>89</sup> For those related to the fourth centenary of Vitoria's death in 1946, see Barcia Trelles, 'Francisco de Vitoria en 1946', *supra* note 80; Barcia Trelles, *supra* note 1; Barcia Trelles (ed.), *Francisco de Vitoria (MDXLVI–MCMXLVI)*, *supra* note 80. See also C. Barcia Trelles, *Interpretación del hecho americano por la España universitaria del siglo XVI* (1949).

<sup>90</sup> See GA Res. 39 (I), 12 December 1946, in which the General Assembly declared itself '[c]onvinced that the Fascist Franco Government of Spain, which was imposed by force upon the Spanish people with the aid of the Axis Powers and which gave material assistance to the Axis Powers in the war, does not represent the Spanish people and by its continued control of Spain is making the participation of the Spanish people with the peoples of the United Nations in international affairs impossible'.

<sup>91</sup> Barcia Trelles, 'Francisco de Vitoria en 1946', 7 *Anuario de la Asociación Francisco de Vitoria* (1947) 7, at 9. Barcia also stressed that 'only a return to the principles bequeathed to us by the authentic founder of international law can save us from this potential chaos': *ibid.*, at 42.

(1915–1924) aligned with the political reformism and pedagogical programme of regenerationism.<sup>92</sup> As we have seen, Barcia was also very interested in regional developments in the Americas, the role international law played in them, and in US foreign policy in the 1920s. After the Spanish Civil War, Barcia's academic attention returned to his early interests in the study of foreign policy and international politics, although now from a markedly different political perspective. Soon after the war, Barcia had become a member of the group of Spanish international lawyers<sup>93</sup> closely associated with the Instituto de Estudios Políticos, the 'brain trust'<sup>94</sup> of the Spanish Falangx. Over the next 35 years, Barcia contributed many academic essays to the Instituto's flagship publications: *Revista de Estudios Políticos (REP)*<sup>95</sup> and, later, *Revista de Política Internacional*.<sup>96</sup>

In the 1940s, in addition to historical pieces and some scattered contributions on technical international legal subjects,<sup>97</sup> Barcia focused mainly on problems of international law in the light of international politics. Representative of this orientation is a sizeable collection of Barcia's articles, written between 1943 and 1948, published under the title *Estudios de política internacional y derecho de gentes* [*Studies in International Politics and the Law of Peoples*].<sup>98</sup> Several pieces gathered in the volume are devoted to the UN Charter,<sup>99</sup> the right of veto<sup>100</sup> and the problematic relationship between the UN and Spain in the 1940s.<sup>101</sup> In the 1950s, Barcia's focus on the study of international relations and international politics became even more apparent. His extensive 1951 *El Pacto Atlántico*<sup>102</sup> on the establishment of the North-Atlantic Treaty Organization (NATO) – subtitled *El mar y la tierra frente a frente* [The Land and Sea Facing Each Other] in reference to the conflict between the American thalassocracy and the Soviet geocracy – presents many parallels with Schmitt's own contemporaneous geopolitically inspired explorations. Barcia's book, which adopts a marked Cold Warrior perspective regarding the importance of containing Soviet communism, was followed in the same decade by three other shorter monographs devoted to analysis of a post-World War II international stage defined by the conflict between Moscow

<sup>92</sup> See, e.g., Ramirez Benito, 'La Gran Guerra vista desde la intelectualidad de la revista España: Semanario de la vida nacional (1915–1924)', in M. C. Chaput and M. Peloiler (eds), *Sucesos, guerras, atentados: La escritura de la violencia y sus representaciones* (2009) 57.

<sup>93</sup> See De la Rasilla, *supra* note 84.

<sup>94</sup> S. G. Payne, *Falange: Historia del fascismo español* (1965), at 217.

<sup>95</sup> See the first in a series of over 50 identically-titled articles extending over a decade: Barcia Trelles, 'El ayer, el hoy y el mañana internacionales', 49 *Revista de estudios políticos* (1950) 169, available at <https://dialnet.unirioja.es/servlet/revista?codigo=1166>.

<sup>96</sup> See the opening article of the first issue of the journal: Barcia Trelles, 'El Pacto del Atlántico y las inclinaciones geopolíticas de la U.R.S.S.', 1 *Revista de política Internacional* (1950) 1.

<sup>97</sup> Barcia Trelles, 'El derecho de asilo diplomático y el caso Haya de la Torre: Glosas a una sentencia', 3 *REDI* (1950) 753.

<sup>98</sup> C. Barcia Trelles, *Estudios de política internacional y derecho de gentes* (1948).

<sup>99</sup> C. Barcia Trelles, *La Carta organica de San Francisco* (1945).

<sup>100</sup> Barcia Trelles, 'Uso y abuso del derecho de veto', 52 *Revista de información jurídica* (1946) 3.

<sup>101</sup> C. Barcia Trelles, *España, la O.N.U., la doctrina Larreta y el problema de la intervencion* (1947).

<sup>102</sup> C. Barcia Trelles, *El Pacto Atlántico* (1951).

and Washington and the consequent creation of opposing geo-political blocs.<sup>103</sup> These and other of Barcia's works from the 1950s and early 1960s constitute a still largely unexplored body of material of potential interest to international legal historians researching the relationship of international law with the Cold War.<sup>104</sup> These works fostered Barcia's reputation as an original thinker within the German *international politik* tradition of international relations.<sup>105</sup> Throughout the 1960s and 1970s, in his retirement and up until his death, Barcia Trelles continued to publish extensively, producing new books, chapters and journal articles on multiple topical international events.<sup>106</sup> To mention but a few, the topics range from the Spanish–British diplomatic conflict over Gibraltar,<sup>107</sup> to decolonization and neo-colonialism,<sup>108</sup> to the study of US foreign policy, which Barcia had pursued since the 1920s.<sup>109</sup>

## 4 Conclusion

More than 40 years after Camilo Barcia Trelles passed away, a number of insights might be gained from a closer examination of his academic work and the intellectual and political context in which it was produced. Barcia's contribution to the rekindling of interest in the School of Salamanca among international lawyers during the 'modern foundational period of international law'<sup>110</sup> left a profound mark on the discipline. Thanks to Barcia's contribution to reaffirming the Vitorian origins of the European tradition of international law – not only in the historical sense but also, to a great extent, in terms of the discipline's telos – his intellectual legacy is still alive in our contemporary international legal consciousness in the global era.<sup>111</sup> By examining the enduringly influential Vitorian triangle – between Camilo Barcia Trelles, James Brown Scott and Carl Schmitt – in the interwar period and later,<sup>112</sup> and situating the confluence of the various intellectual currents that helped propel Vitoria to prominence in the genealogy of international law, the contributors to this symposium have

<sup>103</sup> C. Barcia Trelles, *El problema de la unidad del mundo posbélico* (1953); C. Barcia Trelles, *El problema de la alteración del equilibrio en el mundo posbélico* (1955); and C. Barcia Trelles, *Los caminos escabrosos de la Europa posbélica* (1959).

<sup>104</sup> See further M. Craven, S. Pahuja and G. Simpson (eds), *International Law and the Cold War* (2019).

<sup>105</sup> Miaja de la Muela, *supra* note 50, at 10.

<sup>106</sup> C. Barcia Trelles, *Estudios de derecho internacional marítimo* (1968); C. Barcia Trelles, *Cisma en la comunidad atlántica* (1968); C. Barcia Trelles, *El denominado mundo interpuesto como fenómeno posbélico* (1972).

<sup>107</sup> Barcia Trelles, 'En torno al Libro Rojo', 146 *Revista de Estudios Políticos* (1966) 5.

<sup>108</sup> Barcia Trelles, 'La ONU, la descolonización y el neocolonialismo', 136 *Revista de Política Internacional* (1974) 17.

<sup>109</sup> For a very long list of Barcia's publications written in his retirement, see Cebreiros Álvarez, *supra* note 11, at 6–7.

<sup>110</sup> Paulus, 'The International Legal System as a Constitution', in J. L. Dunoff and J. P. Trachtman (eds), *Ruling the World? Constitutionalism, International Law, and Global Governance* (2009) 69.

<sup>111</sup> See, e.g., Gordon, 'Natural Law in International Legal Theory: Linear and Dialectical Representations', in F. Hoffmann and A. Orford (eds), *Oxford Handbook of the Theory of International Law* (2016) 279.

<sup>112</sup> Most recently on Schmitt and Brown Scott, see Smeltzer, 'On the Use and Abuse of Francisco de Vitoria: James Brown Scott and Carl Schmitt', 20 *JHIL* (2018) 345.

also unveiled new keys to understanding the status and significance of Francisco de Vitoria's works in present scholarly debates.<sup>113</sup>

Second, revisiting Barcia Trelles and his works serves as a useful reminder of the protean nature of the classics of international law. The most defining characteristic of the classics of international law is that they become the object of different interpretations and re-interpretations in light of changing historical circumstances and the rise and fall of ideologies and trends in international legal thought over time. Nowhere is this clearer, perhaps, than in the case of Hugo Grotius,<sup>114</sup> but the same pattern also applies to Francisco de Vitoria.<sup>115</sup> The study of these interpretations and re-interpretations has the potential to cast new light on many histories of international law that have remained hidden in the shadow of Vitoria. Moreover, the same historiographical insight could well lead to new research on the interpretations and re-interpretations that other members of both the classical and modern canon of international law have experienced and, by extension, on the life, times and works of those who contributed to their intellectual revival at different times.

Third, Barcia's life and opus are historically representative of a 20th-century semi-peripheral, southern European generation of international law scholars who have been historically neglected by both Spaniards and foreigners alike in favour of study of the northern and central European branches of the 'invisible college'.<sup>116</sup> Although the intellectual history of international law is often studied in light of international law scholars associated with periods of dominance by great powers, and Spain was only a semi-peripheral power in the 19th and 20th centuries, the history of international law in Spain is no less representative of the historical development of the study of international law in Europe. Moreover, the Spanish history of international law is particularly relevant regarding an important intellectual moment of transition in the history of international law in the 20th century. In Spain, this transition was embodied by the unresolved tension between two opposite tendencies. These were, on the one hand, as Ignacio Forcada has rightly pointed out, a deeply Catholic religious tradition under the influence of which 'the *ius*-philosophical origins and the appeal for historical knowledge became translated into a fixation with the doctrines of the Spanish theologians of the 16th century and, as a consequence, with a natural attraction towards a natural law with Christian roots'<sup>117</sup> and, on the other hand, a generational

<sup>113</sup> See, e.g., Koskenniemi, *supra* note 6. See also Orford, 'The Past as Law or History? The Relevance of Imperialism for Modern International Law', in M. Toufayan, E. Tourme-Jouannet and H. Ruiz-Fabri (eds), *Droit international et nouvelles approches sur le tiers-monde: Entre répétition et renouveau* (2013) 97. For an earlier account, see also Anghie, 'Francisco de Vitoria and the Colonial Origins of International Law', 5 *Social and Legal Studies* (1996) 321.

<sup>114</sup> De la Rasilla, 'Grotian Revivals in the Theory and History of International Law', in R. C. H. Lesaffer and J. Nijman (eds), *The Cambridge Companion to Hugo Grotius* (forthcoming 2021).

<sup>115</sup> De la Rasilla, 'Francisco de Vitoria's Unexpected Transformations and Reinterpretations for International Law', 15 *International Community Law Review* (2013) 287. See further De la Rasilla, *supra* note 67.

<sup>116</sup> See, e.g., M. Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (2001) (quoting the work of Spanish international lawyers only in two footnotes).

<sup>117</sup> See Forcada Barona, *supra* note 39, at 281.

embrace of bourgeois ‘modern scientism’ that became, in its turn, translated into a generational attempt ‘to confront the object of its study scientifically’.<sup>118</sup> The outcome of the Spanish Civil War and the profound influence of the nationalistic Catholicism of the new regime, which has been described as the ‘missing link between fascist dictatorships and authoritarian regimes’,<sup>119</sup> on the works of Spanish international lawyers would freeze in time this interwar tension in Spain longer than anywhere else in the Western world, and contribute to the spread of its intellectual influence abroad.

Last but not least, the study of the history of international law in Spain during the Spanish Civil War and under the Franco regime still remains a neglected part of the historical memory of Spain in the 20th century. This memory still occasionally proves divisive among the citizenry and political parties in Spain. The controversies surrounding the application of the Spanish Historical Memory Act of 2007,<sup>120</sup> and its 2018 reform,<sup>121</sup> which was aimed at enabling the exhumation of General Franco’s remains from the Valley of the Fallen in 2019,<sup>122</sup> and the manner in which the international campaign of the Catalanian independence movement has weaponized the memory of Francoism in Spain,<sup>123</sup> sufficiently illustrate the still audible echoes of the Spanish historical experience of authoritarianism. This parallels the experiences of many other European countries with fascist political regimes, and the study of their effects and long-term implications on their legal traditions<sup>124</sup> and, perhaps, more broadly, on international law itself.<sup>125</sup> Likewise, the history of international law in Spain in the 19th and 20th centuries is part of the historical heritage of international law in Europe where recent years have seen a growth of national histories of international law.<sup>126</sup> In addition, because of the legal and cultural influence of Spain on

<sup>118</sup> *Ibid.*

<sup>119</sup> I. Saz Campos, *Fascismo y Franquismo* (2004), at 90.

<sup>120</sup> See Spain’s responses to the reports on this issue by various UN human rights bodies: ‘Observaciones de España al informe del Relator Especial de Naciones Unidas sobre la promoción de la verdad, la justicia, la reparación y las garantías de no repetición, Sr. Pablo de Greiff, sobre su visita a España’, UN Doc. A/HRC/27/56/Add.3, 17 September 2014; Misión a España: Comentarios de España al informe del Grupo de trabajo sobre las desapariciones forzadas o involuntarias tras su misión a España, UN Doc. A/HRC/27/49/Add.3, 23 December 2014; Report on follow-up to the observations of the Committee on Enforced Disappearances concerning its consideration of the report of Spain, Doc. CED/C/ESP/CO/1/Add.1, 16 January 2015.

<sup>121</sup> ‘El Congreso aprueba el decreto de exhumación de Franco con la abstención del PP y Ciudadanos’, *El País* (13 September 2018), available at <https://bit.ly/38oMSHc>.

<sup>122</sup> Exhumación de Franco, *Radio Televisión Española* (24 October 2019), available at [www.rtve.es/noticias/exhumacion-franco/](http://www.rtve.es/noticias/exhumacion-franco/).

<sup>123</sup> See, e.g., Weller, ‘Secession and Self-Determination in Western Europe: The Case of Catalonia’, *EJIL: Talk!* (17 October 2017), available at [www.ejiltalk.org/secession-and-self-determination-in-western-europe-the-case-of-catalonia/](http://www.ejiltalk.org/secession-and-self-determination-in-western-europe-the-case-of-catalonia/).

<sup>124</sup> See, e.g., C. Joerges and N. S. Ghaleigh (eds), *Darker Legacies of Law in Europe: The Shadow of National Socialism and Fascism Over Europe and its Legal Traditions* (2003).

<sup>125</sup> Parfitt, ‘Fascism, Imperialism and International Law: An Arch Met a Motorway and the Rest is History...’, 31 *Leiden Journal of International Law* (2018) 509.

<sup>126</sup> See, e.g., G. Bartolini (ed.), *A History of International Law in Italy* (2020); V. Genin, *Le laboratoire belge du droit international: Une communauté épistémique et internationale de juristes (1869–1914)* (2018).



Spanish-speaking countries, the Spanish international legal history still remains a largely unexplored part of the intellectual history of international law across the Latin America region.<sup>127</sup> For all these reasons, the far too long neglected study of the history of international law in Spain in the 19th and 20th centuries should continue to be investigated in a critical and objective light.

<sup>127</sup> See Scarfi, *supra* note 7.