
Camilo Barcia Trelles on the Meaning of the Monroe Doctrine and the Legacy of Vitoria in the Americas

Juan Pablo Scarfi*

Abstract

This article explores three important dimensions of the work and trajectory of Camilo Barcia Trelles: his understanding of the Monroe Doctrine; his vision and contribution to the debates in Latin America and the United States over intervention and the codification of American international law; and how his own understanding of the intellectual legacy of Francisco de Vitoria shaped his views and approaches to these topics. The article argues that Barcia Trelles provided a Spanish Americanist version of international law in the Americas, according to which, following the Spanish conquest of America and Vitoria's important contribution to international law, a irreversible division began to emerge between the two Americas, that is, the Latin American and US traditions of international law, especially since the US Declaration of Independence, the collapse of the Spanish Monarchy and the independence of the Spanish American republics.

1 Introduction

Camilo Barcia Trelles contributed to a number of important debates across different regions, particularly in Europe and the Americas, such as the creation of NATO, Spanish foreign policy, the law of the sea, and the aftermath of World War II, the work

* University of San Andres – Consejo Nacional de Investigaciones Científicas y Tecnológicas, Buenos Aires, Argentina. Email: jpscarfi@gmail.com. I am especially grateful to Ignacio de la Rasilla for his comments and suggestions on a previous version of this article. I am also thankful to Eduardo Zimmermann and Miranda Lida for their suggestions.

of Francisco de Vitoria, the Monroe Doctrine, among other topics.¹ This article explores the intersection of two preoccupations: his work on the Monroe Doctrine and on Vitoria, with a particular focus on his work *Doctrina de Monroe y cooperación internacional* [*The Monroe Doctrine and International Cooperation*] (1931).² This work – the most Americanist of his writings – was the outcome of a visit to Washington, D.C., as a European Fellow of the Carnegie Endowment for International Peace (CEIP) at the invitation of a prominent US jurist, James Brown Scott. By focusing on Barcia Trelles's interpretation of the trajectory of the Monroe Doctrine, this article explores the scholar's contribution to the debates over intervention in Latin America and the United States and the codification of American international law. It then turns to an interconnected dimension: how his views and approaches to these topics and his close relationship with Scott shaped his own understanding of the intellectual legacy of Vitoria, whom he regarded as the founder of the law of nations. Barcia Trelles's Spanish Americanist understanding of the Monroe Doctrine took a much broader view of international law, all through the prism of Vitoria's international legal thought.

In recent years, the work of Francisco de Vitoria has been the subject of a number of studies as the history of international law has become a prominent focus in the field,³ and a diverse group of scholars have examined his role in the emergence and legacy of the discipline.⁴ At the same time, scholars have honed in on the debates over the meaning, implications, and redefinitions of the Monroe Doctrine in the 20th century in the Americas.⁵ This has coincided with new works on the emergence of a common tradition of American international law in the Western hemisphere and

¹ C. Barcia Trelles, *El Pacto Atlántico: El mar y la tierra frente a frente* (1951); C. Barcia Trelles, *Puntos cardinales de la política exterior española* (1939); C. Barcia Trelles, *Estudios de Derecho Internacional Marítimo* (1968); C. Barcia Trelles, *El problema de la unidad del mundo posbélico* (1953); C. Barcia Trelles, *La política exterior norteamericana de postguerra* (1925); C. Barcia Trelles, *La Constitución Americana y la Sociedad de las Naciones* (1930); C. Barcia Trelles, *La tendance continentale en Amérique* (1926); Barcia Trelles, 'El derecho de asilo diplomático y el caso Haya de la Torre: Glosas de una sentencia', 3 *Revista Española de Derecho Internacional (REDI)* (1950) 753; Barcia Trelles, 'La doctrine de Monroe dans son développement historique, particulièrement en ce qui concerne les relations interaméricaines', 32 *Recueil des cours de l'Académie de droit international de La Haye (RCADI)* (1930) 397 (hereinafter Barcia Trelles, 'La doctrine Monroe').

² C. Barcia Trelles, *Doctrina de Monroe y cooperación internacional* (1931).

³ Skouteris, 'The Turn to History in International Law', in *Oxford Bibliographies* (2017), available at <https://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0154.xml>.

⁴ See I. de la Rasilla, *In the Shadow of Vitoria: A History of International Law in Spain, 1770–1953* (2017); Koskenniemi, 'Empire and International Law: The Real Spanish Contribution', 61 *University of Toronto Law Journal* 1 (2011); P. Amorosa, *Rewriting the History of the Law of Nations: How James Brown Scott Made Francisco de Vitoria the Founder of International Law* (2019); J. P. Scarfi, *El imperio de la ley: James Brown Scott y la construcción de un orden jurídico interamericano* (2014).

⁵ Scarfi, 'In the Name of the Americas: The Pan-American Redefinition of the Monroe Doctrine and the Emerging Language of American International Law in the Western Hemisphere, 1898–1933', 40 *Diplomatic History* (2016) 189; Bryne, 'After Hundred Years of Service: Hegemony, Pan-Americanism and the Monroe Doctrine Centennial Anniversary, 1923', 29 *Diplomacy & Statecraft* (2018) 565; Rausch, 'Santiago Pérez Triana (1858–1916) and the Pan-Americanization of the Monroe Doctrine', 35 *Historia y sociedad* (2018) 223.

the connections between US imperialism and the rise of international law in the United States and Latin America.⁶ These studies, however, have limited their scope to US and Latin American international law, thus neglecting the question as to how European international lawyers have interpreted the trajectory of international law in the Americas. The work of Barcia Trelles offers distinctively European and Spanish Americanist insight into this rethinking of the Monroe Doctrine and the Latin American and US traditions of international law through the lens of Vitoria's theories.

This article is divided into three sections. Section 2 examines and contextualizes critically Barcia Trelles's interpretation of the precedents of the Monroe Doctrine and his Spanish Americanist perspective. The view of Barcia Trelles on the commonalities and tensions between North and South America is the topic of Section 3, especially the international law traditions and institutions in Latin America and the United States, and the projects for the codification of American international law advanced by the American Institute of International Law (AIIL). Section 4 examines how Barcia Trelles's explorations of the Monroe Doctrine and inter-American legal cooperation were shaped by his understanding of Vitoria, his lively engagement with Scott, and their shared quest for reviving the work and legacy of Vitoria as the founder of modern international law.

2 The Spanish Precedents of the Monroe Doctrine and the Separation of the Two Americas: The Romantic Spanish Americanist Perspective of Barcia Trelles

As originally formulated in 1823, the Monroe Doctrine was an anti-colonial and anti-interventionist US foreign policy principle, since it set limits to European colonialism and interventions in the Americas. At the same time, it also implied a spirit of US paternalism and hegemony over Latin America, in that any intervention of the European powers in the Americas was considered as a national threat to the United States, as if the latter were the protector of the Americas. This latter hegemonic dimension became more explicit when the United States, particularly President James Polk, began to apply the doctrine as an expansionist principle in Latin America in the mid-19th century since the Mexican–US War (1846–1848) and the US annexation of Texas (1845).⁷

Yet Barcia Trelles proposed a controversial and rather artificial interpretation of the Monroe Doctrine, questioning its originality. He argued that the Monroe Doctrine had an important prehistory, which had to be traced back beyond its original 1823

⁶ B. A. Coates, *Legalist Empire: International American Foreign Relations in the Early Twentieth Century* (2016); A. Becker Lorca, *Mestizo International Law: A Global Intellectual History, 1842–1933* (2015); J. P. Scarfi, *The Hidden History of International Law in the Americas: Empire and Legal Networks* (2017).

⁷ On the historical trajectory and roots of the Monroe Doctrine, see J. Sexton, *The Monroe Doctrine: Empire and Nation in Nineteenth-Century America* (2011), as well as G. Murphy, *Hemispheric Imaginings: The Monroe Doctrine and Narratives of U.S. Empire* (2005).

formulation all the way to the discovery of the New World and especially Vitoria's 16th-century conceptions of the law of nations and the Americas. According to Barcia Trelles, the Americas formed a specific continental 'American system', which was based on three interconnected core principles: (i) the Americas should not be a subject of future colonization; (ii) the political system of the New World was both different and incompatible with that of Europe; (iii) Europe should not intervene in the Americas. Barcia Trelles conceived of these three principles and the idea of the American system in rather abstract conceptual terms as pre-existing notions to James Monroe, delinking them from their historical context. For Barcia Trelles believed that these principles associated with the American system were a universal idea, since they emerged alongside the discovery of the Americas as a new world, in which context Vitoria gave birth to a new universal legal conception and envisioned the American continent as a single spatial unit. In the words of Barcia Trelles, 'America is a new world and it gives birth to a new concept of [the] law [of nations] . . . Vitoria writes in Spain but is thinking of America'.⁸ Therefore, rather than initiating a new historical period or advancing a new US foreign policy principle, Monroe, in the view of Barcia Trelles, 'had continued a stale tradition, possibly without noticing and certainly unilateralizing it'.⁹ Indeed, Barcia Trelles was convinced that by relying on such a tradition, and thus proclaiming the idea of the American system as the basis of its own particular diplomatic policy, the United States transformed a universal idea initiated by Vitoria into a unilateral foreign policy principle. According to Barcia Trelles, from the original formulation of Vitoria until the US Declaration of Independence and the independence of Latin American nations in the 19th century, the American system operated as a continental unit; but since then the United States began to adopt a particularistic, isolated, and unilateral posture. It was thus no longer possible 'to refer to the history of America' as a unit, 'but to the history of two diverse Americas that haplessly sought to engage in dialogue and work together, since neither their psychologies nor their aspirations proved compatible'.¹⁰ In this context, in the view of Barcia Trelles, the common law of nations founded by Vitoria lost its original essence as a unifier of the two Americas.

Barcia Trelles developed a Romantic interpretation of the Monroe Doctrine, for he connected the doctrine not only to the Spanish discovery of America and Vitoria's concept of the law of nations, but also to the progressive separation of the two Americas following the independence process both in the United States and Latin America. By that point, after the New World nations declared their independence from Spain and Great Britain, in the view of Barcia Trelles, cultural differences between Spanish America and the United States were translated into two opposing legal and political traditions. In their classic study on Romanticism, Philippe Lacoue-Labarthe and Jean-Luc Nancy stressed that a central attribute of the intellectual spirit of the Romantic tradition was its quest to overcome the constitutive binary divisions of history by

⁸ Barcia Trelles, *supra* note 2, at 22.

⁹ *Ibid.*, at 24.

¹⁰ *Ibid.*, at 37–38.

introducing the possibility of the classic world into the modern one, that is, the restitution of a lost ‘golden age’ as part of a search for total unity.¹¹ The Romantic impulse of returning to—and reintroducing into the modern world—the golden age of Vitoria, a time when the Americas were a single unified entity with a common law of nations, allowed Barcia Trelles to advance a Spanish Americanist exploration of both the Monroe Doctrine and international law in the Americas.

As a promoter of Spanish Americanism, Barcia Trelles was inspired by the culturally oriented foreign policy associated with Rafael Altamira and the Spanish Americanists at the University of Oviedo who strove to further disseminate Spanish culture in Latin America in the early 1920s.¹² The Spanish Americanist foreign policy and cultural cooperation program were based on two premises. First, it was necessary to recover the influence over former colonies that Spain had lost after the First Spanish Republic, and help Spain recover from the crisis of the Spanish–American War of 1898. Second, Spanish influences and cultural references in Latin America could moderate the effects of US expansionism in the region, social transformations, and the resulting political instability throughout Latin America.¹³ The legal vision of Barcia Trelles combined this latter form of Spanish Americanism with a defensive Latin American cultural modernism linked to figures such as José Martí and even Simon Bolívar.¹⁴ For Barcia Trelles maintained a Spanish Americanist solidarity and sympathy towards Latin American nations. The Spanish Americanist perspective of Barcia Trelles was thus also informed and influenced by Martí’s distinction between the two Americas, that is, what he defined as ‘our America’ referring to Latin America and in opposition to the United States.¹⁵ While Latin America maintained its integrity and passion for liberty, the United States were moved by ‘energies that surpassed the condition of normality and expand in the form of blind force, having no destiny’.¹⁶ Yet the sympathy of Barcia Trelles for Latin America and the work of Martí did not adopt the form of a defensive regional anti-imperialist posture.

Barcia Trelles depicted Spanish America, contrasting its cultural and racial personality with that of the United States. Spanish America was above all for Barcia Trelles

¹¹ The search for an undivided world vision to be rescued from a ‘golden age’ has been associated with the Romantic tradition in Europe, particularly as it emerged in Germany. See P. Lacoue-Labarthe and J. L. Nancy, *The Literary Absolute: The Theory of Literature in German Romanticism* (Philip Barnard and Cheryl Lester trans., State University of New York Press, 1988), at 10–11.

¹² R. Altamira, *España y el programa americanista* (1917).

¹³ For a detailed overview of this Spanish Americanist tradition and the cultural foreign policy of cooperation between Spain and Latin America, see I. Sepulveda, *El sueño de la Madre Patria: hispanoamericanismo y nacionalismo* (2005), at 124, 144; De la Rasilla, ‘Camilo Barcia Trelles in and beyond Vitoria’s Shadow (1888–1977)’, 31 *European Journal of International Law (EJIL)* (2020) 1433.

¹⁴ For a group of Spanish Americanists, including Barcia Trelles, certain Latin American versions of Americanism and Latin American unity, such as the ideas and writings of José Martí, were inspirational and informed their own Spanish versions of Americanism. On Altamira’s Spanish Americanism and that of Barcia Trelles, see Sepulveda, *supra* note 13; De la Rasilla, *supra* note 13.

¹⁵ J. Martí, *Nuestra América* (1980).

¹⁶ Barcia Trelles, *supra* note 2, at 39.

the natural cultural successor of the universalist Spanish and Vitorian heritage, for following its independence it retained its ancient tradition of ‘Spanish ecumenism’ and maintained universalist aspirations rendering its land and culture ‘opened to all men’, as well as to ‘the understanding of all ideas’.¹⁷ By contrast, North American and US culture were rooted in particularism, which was essentially ‘episodic’ and ‘fleeting’. Moreover, the presence of racial mixture and the combination of indigenous and European roots gave Spanish America a distinctive and ‘strong personality’, different than the United States’, where ‘indigenous peoples were virtually suppressed’.¹⁸

When examining and debating other contemporary 20th-century alternative interpretations of the Monroe Doctrine, Barcia Trelles deployed a Romantic Spanish Americanist critique of the doctrine, based on a rather nostalgic and rigid abstract attachment to Vitoria’s original understanding of the law of nations, the American continental system, and the principle of non-intervention. Since Vitoria’s approach was forged long before the two Americas were divided, it offered Barcia Trelles the best legal tool to interpret and criticize contemporary uses of the Monroe Doctrine, which tended instead to reinforce these continental divisions. Barcia Trelles thus extrapolated an abstract and artificial conceptual understanding of Vitoria’s Spanish Americanist legacy as a static narrative of the past into the present. Although Barcia Trelles developed an interest in the Monroe Doctrine and US foreign policy in Latin America very early in his career,¹⁹ he was able to hone his Spanish Americanist approach to the doctrine from December 1928 to August 1929 when Scott invited him to the CEIP as a visiting European fellow. There, the Spanish jurist worked to consolidate a Romantic understanding of the Monroe Doctrine, connecting it to Vitoria. This interpretation can be found in lectures funded by the CEIP that Barcia Trelles gave in 1927 at The Hague Academy of International Law,²⁰ and also in his 1931 work, *Doctrina de Monroe y cooperación internacional*.²¹ As noted in the author’s preface, the book was meant to explore the tensions between US unilateralism, as reflected in the Monroe Doctrine, and the quest for international cooperation associated with the League of Nations.²²

Barcia Trelles perceived that the nature and scope of the Monroe Doctrine were a source of debate over international law, and a broad range of international lawyers and diplomats in the United States and Latin America reinterpreted it in the interwar period.²³ While a number of Latin American jurists, including Luis Maria Drago,

¹⁷ *Ibid.*, at 38

¹⁸ *Ibid.*, at 38.

¹⁹ See, e.g., Barcia Trelles, ‘Significación originaria de la doctrina de Monroe’ (1916) 1, and <https://www.yumpu.com/es/document/read/19151934/anos-1914-y-1915-consejo-superior-de-investigaciones-cientificas>.

²⁰ Barcia Trelles ‘Francisco de Vitoria et l’École moderne du droit international’, 17 *RCADI* (1927) 133. See also Lesaffer, ‘The Cradle of International Law: Camilo Barcia Trelles on Francisco de Vitoria at The Hague (1927)’, 31 *EJIL* (2020) 1451; P. Amorosa, ‘The American Project and the Politics of History: James Brown Scott and the Origins of International Law’ (2018) (PhD thesis on file at the University of Helsinki, Helsinki).

²¹ Barcia Trelles, *supra* note 2. See also Barcia Trelles, ‘La doctrine de Monroe’, *supra* note 1.

²² Barcia Trelles, *supra* note 2, at 12.

²³ On the connections between the rise of American international law in the Americas and the redefinition of the Monroe Doctrine, see Scarfi, *supra* note 5; Scarfi, *supra* note 6.

Alejandro Alvarez, and Baltasar Brum, sought to redefine the doctrine in the early 20th century as a common hemispheric, multilateral, and even pan-American principle of non-intervention,²⁴ US jurists and politicians like Elihu Root, Charles Evans Hughes, and James Brown Scott were resistant. Sceptical of these new takes on the doctrine, they instead proposed unilateral, and even interventionist, interpretations like that of the Corollary to the Monroe Doctrine (1904) by President Theodore Roosevelt.²⁵ By contrast, Barcia Trelles sought to demonstrate the extent to which cooperation and solidarity between the United States and Latin America and any 20th-century attempt to forge continental understandings, either through a redefinition of the Monroe Doctrine or pan-Americanism, were futile.²⁶ The two Americas in the 20th century proved to be irreconcilable because of US unilateralism and interventionism, which the United States justified by drawing on the Monroe Doctrine. Barcia Trelles relied on Vitoria's approach and thus deployed it as an artificial alternative of the past in the face of what he considered to be a contemporary tragedy.

In Barcia Trelles's view, the incorporation of the Monroe Doctrine to the League of Nations Covenant contributed inevitably to reinforcing the divisions between the two Americas, consolidating regional misunderstandings. The Spanish jurist offered a fervent critique when the Monroe Doctrine was incorporated to the Covenant of the League of Nations following World War I. The nations of Latin America had also taken a stance against what became Article 21: 'Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as Treaties of Arbitration, or regional understandings like the Monroe doctrine, for securing the maintenance of peace'.²⁷ Barcia Trelles was well aware that this article, which the United States had lobbied for, was a source of concern among a group of anti-imperialist Latin American jurists in the 1920s, including Emilio Roig de Leuchsenring and Isidro Fabela.²⁸ These jurists believed that the fact that the League's Covenant recognized the Monroe Doctrine as a 'regional understanding' contributed to legitimizing it not only within the Americas, but also among European powers. More broadly, it now meant that intergovernmental organizations recognized the doctrine, implying that the Covenant was providing its seal of approval for US supremacy in Latin America.²⁹ Indeed, in the

²⁴ See Drago, 'State Loans in Their Relation to International Policy', 1 *American Journal of International Law (AJIL)* (1907) 692; Alvarez, 'Latin America and International Law', 3 *AJIL* (1909) 269; Brum, 'Solidaridad americana', in B. Brum, *Estudios políticos y de derecho* (1999) 187.

²⁵ See Root, 'The Real Monroe Doctrine', 8 *AJIL* (1914) 427; Hughes, 'Observations on the Monroe Doctrine', 17 *AJIL* (1923) 611; Scott, 'American Solidarity', 14 *AJIL* (1920) 598. See also Scarfi, *supra* note 5.

²⁶ See Scarfi, 'Globalizing the Latin American Legal Field: Continental and Regional Approaches to the International Legal Order in Latin America', 61 *Revista Brasileira de Política Internacional* (2018) 1.

²⁷ See Covenant of the League of Nations, 28 April 1919. See also F. S. Northedge, *The League of Nations: Its Life and Times, 1920–1946* (1988), at 324.

²⁸ E. Roig de Leuchsenring, *La Doctrina de Monroe y el Pacto de la Liga de las Naciones* (1921); I. Fabela, *Los Estados Unidos contra la libertad: Estudios de historia diplomática americana (Cuba, Filipinas, Panamá, Nicaragua, República Dominicana)* (1920); Scarfi, 'Denaturalizing the Monroe Doctrine: The Rise of Latin American Legal Anti-Imperialism in the Face of the Modern US and Hemispheric Redefinition of the Monroe Doctrine', 33 *Leiden Journal of International Law* (2020), 551; Barcia Trelles, *supra* note 2, at 672.

²⁹ Roig de Leuchsenring, *supra* note 28; Fabela, *supra* note 28.

view of Roig de Leuchsenring and Fabela, Article 21 proved that the Monroe Doctrine was a flexible, unilateral principle in the service of US hegemony in Latin America; as such, Latin American jurists had to come out against it. Barcia Trelles adopted a different approach: although the Monroe Doctrine had been accepted as a multilateral arrangement applicable to the Americas, he argued, it had been adopted without the consent of Hispanic-American nations.³⁰

Unlike the concrete anti-imperialist arguments of these Latin American jurists against the Monroe Doctrine, the Spanish jurist contrasted the doctrine with Vitoria's abstract notions of unity, cooperation, and what he termed 'anti-imperialist redemption', notions he saw as superior to modern ones.³¹ Fabela and Roig de Leuchsenring, two anti-imperialist critics, noted a concrete contradiction in the Monroe Doctrine, since, instead of protecting Latin American nations from foreign intervention, it created an exception that gave the United States *carte blanche* to intervene unilaterally and on a regular basis.³² Although Barcia Trelles, like Fabela and Roig de Leuchsenring, was in favour of absolute non-intervention, he believed that creating Latin American anti-interventionist legal principles to weaken the Monroe Doctrine and US unilateralism was a futile enterprise. Any new principle, in his view, would only serve to reinforce the legal and cultural divisions the unilateral Monroe Doctrine had imposed on the Americas. The transition from the common law of nations Vitoria had put forth to protect the Americas as a single continental unit from European interventions to Monroe's unilateral and arbitrary foreign policy principle was irreversible, as were the divisions between the two Americas in the 20th century.

Inspired by Vitoria as a sacred figure of the past, the critique proffered by Barcia Trelles operated as a Romantic historical and geographical artifice to condemn nineteenth and especially early 20th-century interventionist and pan-Americanist uses of the Monroe Doctrine. It was historical in that it was presented as the prehistory of the doctrine and remained attached to Vitoria's classic approach, but at the same time Barcia Trelles deployed it somehow as an artificial and abstract legal tool extrapolating it into different historical and geographical contexts. First, when Barcia Trelles evoked with nostalgia Vitoria's golden age as a time when the two Americas were a single continent, he thus overlooked the extremely violent and conflictual context underlying the conquest of America. It involved colonial usurpation and the most notable victims were above all the indigenous peoples of the Americas, to whom Barcia Trelles made almost no reference. Second, and more importantly, by overemphasizing the cultural connections between Spain and Spanish American culture, Barcia Trelles underestimated the importance of the 'American Indians' and 'indigenous populations', a subject that was at the core of Vitoria's concerns in *De Indis*.³³ Third, the idea of a golden age of Spanish American unity, linking South and North America

³⁰ Barcia Trelles, *supra* note 2, at 257.

³¹ Barcia Trelles, *supra* note 20, at 142.

³² See Scarfi, *supra* note 28.

³³ See Vitoria, 'On the American Indians (*De Indis*)', in A. Pagden and J. Lawrance (eds), *Political Writings* (1991) 231.

as a continental unit in the time of Vitoria, dismissed the extent to which other alternative colonial settlements and territorial possessions, such as Portuguese ones, played a fundamental cultural, linguistic, and racial role in the configuration of the American continent in the colonial and post-colonial era. While Barcia Trelles was perfectly aware of British settlements and associated them with the emergence of US particularism on the continent, he completely disregarded Portuguese settlements and possessions in the Americas and the contribution of Portuguese culture to the configuration of the Americas. Finally, in geographic terms, Spain and Great Britain established their settlements in different parts of the Americas, so their territorial possessions did not overlap. Indeed, there was no extensive presence of Spain on the east coast of North America, where British interests were clustered. Therefore, Barcia Trelles's idea, according to which British settlements and Anglo-Saxon traditions arrived in the Americas to disrupt a continent that was already well established under Spanish colonial hegemony, and gave birth to US particularism, individualism, and unilateralism, was if anything a geographical artifice and a complete abstraction of historical events.

All in all, in the Romantic Spanish Americanist narrative of Barcia Trelles the history of the tensions between the two Americas – and between the Monroe Doctrine and international cooperation in the Americas – was condemned to be providential and irreversible. As such, according to Barcia Trelles, it led to several failed attempts to build cooperation and solidarity.

3 International Law in the Americas: Barcia Trelles's View of Latin America, the United States, and the Projects of the American Institute of International Law

As a Spanish Americanist jurist, Barcia Trelles supported regional Latin American initiatives and their opposition to US interventionism, in particular, those of Simon Bolivar. In response to the Monroe Doctrine in 1823, Bolivar had proposed a regional organization comprised of Hispanic American states at the Panama Congress, an initiative for lasting regional cooperation. While anti-imperialist figures like Jose Vasconcelos believed that Bolivar was a sound alternative, Barcia Trelles lamented that the two Americas would remain divided between the United States and Latin America.³⁴

The tension between cooperation (Bolivar) and unilateralism (Monroe), was not about principles, according to Barcia Trelles, but about cultural and political attitudes. This emphasis on common Spanish American cultural attitudes was consistent with Barcia Trelles's Romantic approach to international law in the Americas. The Hispanic American republics took no issue with the Monroe Doctrine as originally formulated; after all, they too were in favour of a statement of continental unity. In other words,

³⁴ See J. Vasconcelos, *Bolivarismo y monroismo: Temas iberoamericanos* (1934).

the source of conflict and tension between these two traditions of international law in the Americas had to do with cultural attitudes, since the Hispanic American nations supported the Monroe Doctrine as long as it was limited to a continental plan for cooperation and multilateralism.³⁵ Yet, as noted earlier, Barcia Trelles conceived of the doctrine as a transient and arbitrary principle of US foreign policy and thus opposed to international cooperation. In contrast, according to Barcia Trelles, Bolivar's proposal for a confederation of Hispanic American states to enhance regional cooperation had the potential for long-term stability and consistency. Bolivar himself was a defender of 'confederative Hispanic-American unity',³⁶ and Barcia Trelles thus portrayed him as a true successor of Vitoria, the difference being that Bolivar embraced regional, rather than hemispheric, unity.

In terms of the pan-American movement introduced by Secretary of State James Blaine in 1889, Barcia Trelles regarded this new US initiative as another stage in the tradition of self-serving, transient, and unilateral foreign policy towards Hispanic America. The Spanish jurist was well aware that advocates and supporters of pan-Americanism across the Americas mistakenly interpreted Bolivar's regional plans for a confederation of states as a precursor to US-led pan-Americanism. Seeking to rectify the misunderstanding, Barcia Trelles outlined the long history of tensions between the opposing cultural attitudes and legal traditions in the Americas. Projects for a common continental organization were doomed to fail, because the cultural attitudes of Hispanic America and the United States towards international cooperation had grown intrinsically different since their respective independence from Spain and Great Britain.

Barcia Trelles was sceptical not only of pan-Americanism and the prospects for continental organization and cooperation, but also of the main legal initiatives and projects Alvarez and Scott proposed within the AILL in the 1920s. Although the Spanish jurist closely followed the institute's initiatives and publications – his contributions appeared in the *Revista de derecho internacional*, the official publication of the AILL, edited and published in Cuba – he was certainly critical of the project, supported by Alvarez, to build a common international law for the Americas, conciliating two legal traditions.³⁷ Barcia Trelles saw any attempt to begin a common pan-American legal tradition in the 20th century as doomed to failure.

As an advocate of international cooperation and absolute non-intervention, Barcia Trelles was supportive of the Latin American debates on the AILL projects for the codification of American international law at the Rio de Janeiro Commission (1927) and the Sixth Pan-American Conference held in Havana (1928).³⁸ In Barcia Trelles's view, 'the plague of interventions', – in particular, US interventions – was 'the evil of the Americas'. It is no surprise, then, that the Spanish jurist staunchly defended

³⁵ Barcia Trelles preferred the term 'plurilateral' to 'multilateral'. See Barcia Trelles, *supra* note 2, at 194, 257.

³⁶ *Ibid.*, at 160.

³⁷ See, e.g., Barcia Trelles, 'En la Universidad de Valladolid por la paz del nuevo mundo. Una sección de estudios americanistas', 5 *Revista de Derecho Internacional (RDI)* (1924) 37; Barcia Trelles, 'James Brown Scott', 9 *RDI* (1930) 40.

³⁸ On the projects for the codification of American international law advanced by the AILL, see Scarfi *supra* note 6.

Costa Rican jurist and AAIL founding member Luis Anderson, who argued for including the principle of absolute non-intervention in the institute's codification projects.³⁹ At the Pan-American Conference held in Havana in 1928, there was no support for Anderson's proposal, and the principle of absolute non-intervention was abandoned as a hemispheric multilateral principle. Therefore, Barcia Trelles viewed the outcome of the AAIL projects as a great failure in both geographic and legal terms.

Following the Havana Conference, Barcia Trelles harboured little hope for the application of the principles of absolute non-intervention, continental cooperation, or solidarity in the Americas. 'Formulated to oppose a threat of an intervention, a century later, the doctrine is invoked to justify interventions after the fact, thus taking precisely the opposite approach to the problem'.⁴⁰ Moreover, the Monroe Doctrine widened the gap between the two Americas, making inter-American solidarity all but impossible. One might wonder whether inter-American multilateralism, as it emerged in the 1930s and became official with the launch of Franklin D. Roosevelt's Good Neighbour Policy, might have been seen as a solution to the long-standing tension between the doctrine and inter-American cooperation. The only possible answer, according to Barcia Trelles, was a return to Vitoria, since it was very likely that the Good Neighbour Policy, like the Monroe Doctrine, could become a transient US foreign policy strategy.

4 The Two Americas and the Legacy of Vitoria: Barcia Trelles, Scott, and Nostalgia for the Lost Unity of International Law in the Americas

Barcia Trelles and James Brown Scott regarded Vitoria as the founder of the modern law of nations and contributed to the revival of his legacy in the late 1920s and early 1930s.⁴¹ While benefiting from mutual influence, their approaches also differed, especially with regard to how Vitoria's thought applied to the trajectory of international law in the Americas. By taking a forward-looking approach to Vitoria, Scott portrayed him as both 'a liberal' and 'the prophet of the newer law of nations'. International law as presented by Vitoria was 'a liberal law of nations', and Scott thus argued that it had anticipated Roosevelt's so-called 'good neighbour' policy.⁴² Barcia Trelles proposed a

³⁹ Barcia Trelles, *supra* note 2, at 699.

⁴⁰ *Ibid.*, at 738.

⁴¹ Barcia Trelles, *supra* note 20; 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); Barcia Trelles, 'Francisco Suarez (1548–1617): les théologiens espagnols du XVII^e siècle et l'école moderne du droit international', 43 *RCADI* (1933) 385; J. B. Scott, *El origen español del derecho internacional moderno* (1928); J. B. Scott, *The Spanish Origins of International Law: Francisco de Vitoria and his Law of Nations* (1934); J. B. Scott, *The Catholic Conception of International Law* (1934).

⁴² Scott's liberal internationalist interpretation of Vitoria and the connections he made with the Good Neighbour Policy were reflected in his work and lectures on Vitoria in the 1930s. See J. B. Scott, *The Spanish Origins of International Law. Francisco de Vitoria and his Law of Nations* (1934), at 280, 288; J. B. Scott, *Conferencias del Presidente del Instituto Americano de Derecho Internacional Dr. James Brown Scott preparadas en homenaje a la Universidad Mayou de San Marcos* (1938), at 145. On Scott's liberal internationalist approach to Vitoria, see Scarfi, *supra* note 4.

nostalgic and Romantic understanding of Vitoria, since the cultural and legal divisions between the United States and Latin America did away with the unity of the Americas that had accompanied the ‘discovery’ of the continent.⁴³ Indeed, Barcia Trelles’s view of Vitoria as belonging to the golden age of the European law of nations was much closer to Carl Schmitt’s legal vision than to that of Scott.⁴⁴ The Spanish jurist’s understanding of Vitoria had certain things in common with Schmitt’s interpretation of the *jus publicum europaeum* and of the work of Vitoria as laid out in his *Nomos der Erde*. According to Martti Koskenniemi, ‘Schmitt did not hide his admiration for the *jus publicum europaeum*’ and the international legal and political order of Europe’s early modern era, but at the same time ‘he recognized that there was no return’.⁴⁵ Schmitt portrayed the theological and legal vision of Vitoria as both emerging from, and epitomizing, this European international legal order.⁴⁶ More importantly, Schmitt characterized Vitoria’s method and style as materialized in a theological language of ‘ahistorical objectivity’, ‘impartiality’, and even ‘neutrality’ to the extent that he ignored ‘the humanitarian concept of “discovery” so laden with history in the modern view’.⁴⁷ In a similar vein, Barcia Trelles saw the work of Vitoria as a perennial source, which outlined the ‘immortal principles’ of justice.⁴⁸ Although Schmitt maintained a nostalgic vision of the *jus publicum europaeum*, he was certainly sceptical of Romanticism and resisted any association with it as a political tradition.⁴⁹ Barcia Trelles was even more nostalgic, since he lamented that Vitoria’s vision of the Americas as a single, unified continent was no longer possible. As both a Romantic and Spanish Americanist himself, Barcia Trelles considered that no US or Latin American figure – not Monroe, Bolivar, Scott, or Alvarez – could be more Americanist than Vitoria. For Barcia Trelles, Vitoria was the only one who had an authentically Spanish American vision of international law in the Americas as a unified system.

Barcia Trelles and Scott supported radically different versions of Americanism. The Spanish jurist had a pluralist, inclusive understanding of the Americas that drew on Martí’s concept of ‘our America’, understanding North and South America as a single continent while putting forth the notion of ‘Indo-America’. In contrast, Scott adopted a US-centred pragmatic, elitist, and technocratic approach to the codification of American international law and pan-Americanism. In this view, US legal traditions

⁴³ Barcia Trelles, *supra* note 2.

⁴⁴ C. Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (G. L. Ulmen trans., Telos Press, 2006).

⁴⁵ Koskenniemi, ‘International Law as Political Theology: How to Read *Nomos der Erde*’, 11 *Constellations* (2004), at 495

⁴⁶ See Schmitt, *supra* note 44, at 101. Indeed, Schmitt made reference to Barcia Trelles’s interpretation of Vitoria: *ibid.*, at 118.

⁴⁷ *Ibid.*, at 106, 102.

⁴⁸ Barcia Trelles, ‘Prólogo’, in J. B. Scott, *El origen español del derecho internacional moderno* (1928), at xviii.

⁴⁹ C. Schmitt, *Political Romanticism* (Guy Oakes trans., MIT Press, 1986). See also Dotti’s prologue to the Spanish edition of Schmitt’s *Political Romanticism*: Dotti, ‘Definidme como queráis, pero no como romántico’, in C. Schmitt, *Romanticismo político* (Luis A. Rossi and Silvia Schwarzböck trans., Universidad Nacional de Quilmes, 2001), 9.

were the perfect model for constructing a new, single pan-American code for the Americas.⁵⁰

Barcia Trelles and Scott proposed contrasting interpretations of Vitoria that drew on the trajectory of international law. Scott went to Vitoria for inspiration and even clues and tools on how to enhance the practice of international law in the future. By contrast, Barcia Trelles considered that Vitoria was 'destined to become eternal', that is, a perennial figure who spoke in the name of 'humanity', 'justice', and 'objective law'.⁵¹ Barcia Trelles contrasted Vitoria with Machiavelli, proposing that while the latter was associated with the transient nature of things, the former was linked to objectivity and the long term. This comparison is similar to the one he made when describing the Monroe Doctrine as transient and arbitrary versus Hispanic and Latin American solidarity as genuine and lasting.⁵²

5 Conclusions

This article offers Barcia Trelles' Spanish – and European – insight into the Monroe Doctrine, a question that has traditionally been explored on the other side of the Atlantic. First, Barcia Trelles proposed a Romantic critique of the Monroe Doctrine. In his view, the doctrine established a cultural and legal rift between the two Americas and their respective international law traditions. The only possibility for rebuilding the connection was, according to Barcia Trelles, a return to Vitoria's vision of a single law of nations for the Americas. Second, as a critic of the US Monroe Doctrine, Barcia Trelles supported instead a series of Latin American initiatives of international cooperation and non-intervention in Spanish America, associated with figures such as Bolívar and Martí. As such, he was sceptical of the pan-American projects advanced by Scott, Alvarez, and the overall project of the AIIL of constructing a common American international law for the Americas in the 20th century. Finally, in Barcia Trelles's Romantic view, Vitoria, unlike his successors Bolívar and Martí, was able to envision a unified and common Spanish American legal tradition long before these ideals began to be corroded by US unilateralism and the Monroe Doctrine.

⁵⁰ See Scarfi, *supra* note 6.

⁵¹ Barcia Trelles, *supra* note 48, at xviii.

⁵² Barcia Trelles went as far as to affirm: 'Who will doubt that Vitoria is the founder of a system of International Law that has not been implemented?' (*ibid.*, at xi).