

# Beyond the Spanish Classics

The Ephemeral Awakening of the History  
of International Law in Pre-Democratic Spain

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## Résumé

*Par-delà les classiques espagnols*

*Le réveil éphémère de l'histoire du droit international dans l'Espagne pré-démocratique*

La revue *Cuadernos para el Diálogo* (1963-1978) a joué un rôle-clé en alimentant le terreau intellectuel durant la transition espagnole vers la démocratie et elle a engendré une littérature conséquente chez les historiens. Cet article relie pour la première fois la trajectoire de ce mensuel emblématique à la brève période d'innovation méthodologique et historiographique de la *Revista Española de Derecho Internacional* – la Revue espagnole de droit international – dirigée par le juriste international Mariano Aguilar Navarro.

**Mots-clés** : Franquisme tardif – *Cuadernos para el Diálogo* – Histoire espagnole du droit international – Intelligentsia dissidente – Phalangisme libéral

## Abstract

*Cuadernos para el Diálogo (1963-1978) played a key-role in nurturing the intellectual soil for the Spanish Transition to democracy and it has spawned an extensive amount of literature among historians. This work links for the first time the course of this emblematic monthly journal with the short-lived period of methodological and historiographical innovation of Revista Española de Derecho Internacional under the direction of the international jurist Mariano Aguilar Navarro.*

**Keywords:** *Late-Francoism – Cuadernos para el Diálogo – Spanish History of International Law – Dissident Intelligentsia – Liberal Phalangism.*

« Es corona de la discreción el saber filosofar, sacando de todo, como solícita abeja, o la miel del gustoso provecho o la cera para la luz del desengaño ».

*Culta Repartición de la Vida de un Discreto*, Baltasar Gracián, *El Discreto* (1646)

The history of international law in Spain in the 19<sup>th</sup> and 20<sup>th</sup> century remains in its infancy.<sup>1</sup> This present state of affairs becomes even more paradoxical in the light of the archetypical role that the Spanish Classics of International law have largely played in the consciousness of every generation of international lawyers globally for, at least, the last century and a half. As it is widely known, the likes of Francisco de Vitoria, Suarez, De las Casas *et al.* are still often heralded as the founders of the discipline of international law<sup>2</sup> and continue to be brought out in public iconic procession at key-historical turning points of the history of international law. The Spanish classics have returned to international legal attention during the nineteenth century debates on the civilizing mission<sup>3</sup>

1. A series of recent contributions have been oriented to begin to bridge this gap in the history of international law in Spain in the 19<sup>th</sup> and 20<sup>th</sup> centuries. This on-going effort also inspires the present contribution; Ignacio DE LA RASILLA, « El estudio de la historia del Derecho internacional en el corto siglo XIX español », *Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte*, vol. 23 (2013), p. 48-65; Ignacio DE LA RASILLA, "The Fascist Mimesis of Spanish International Law and its Vitorian Aftermath, 1939-1953", *The Journal of the History of International Law*, vol. 4 (2012/2), p. 207-236; Ignacio de LA RASILLA, Yolanda GAMARRA (dir.), *Historia del Pensamiento lusinternacionalista Español del siglo XX*, Cizur Menor (Navarra), Thompson-Reuters Aranzadi, 2012.
2. James BROWN SCOTT, *The Spanish Origins of International Law* (Oxford: The Clarendon press, 1934).
3. Martti KOSKENNIEMI, "Empire and International Law. The Real Spanish Contribution", *University of Toronto Law Journal*, vol. 61 (2011/1), p. 1-36.

as well as during the interwar debates on the influence a natural law-based binding nature of international legal obligations and in post-Second World War debates in support of international human rights. The Spanish classics have again been amply paraded in debates during the post-cold war era; indeed, even, nowadays, the *Seconda Scholastica* continues to trigger bloodshot-intellectual debates between international legal theorists and historians regarding the weight of Eurocentrism and the imperial genealogy of international law under the influence of the post-colonial historiographical challenge in today's globalizing and multi-polar international legal order.<sup>4</sup> Even the constitutionalization of international law which, as a doctrinal trend is partly an offspring of the European regional process of integration, has been once again retraced back, following a pattern of repetition and renewal, again to the horizon of the proto-international community and the universalist spirit of the natural law tradition for which the 16<sup>th</sup> century Spanish priests of the School of Salamanca do apparently still

4. Martti KOSKENNIEMI, "Vitoria and Us. Thoughts on Critical History of International Law", *Journal of the Max Planck Institute for European Legal History*, vol. 22 (2014), p. 119-138; Antony ANGHIE, *Imperialism, Sovereignty and the Making of International Law* (Cambridge, UK: Cambridge University Press, 2005).

provide inspiration.<sup>5</sup> Despite the enlightening interest of these largely-archetypical and theoretical debates among international lawyers and international legal theorists, it is, however, high time to seriously acknowledge that these have obscured the much due attention to the reality of the evolution of the history of international law in Spain—an evolution which has contributed volumes to the referred imaginary and, very often, has done it so under conditions of intellectual repression.

At a time where the post-Cold War “turn to history in international law”<sup>6</sup> has profoundly enriched and deepened a new generation of international legal scholars’ reflective understanding of the complex historical layers and intellectual sources that inform the continuities and discontinuities of their own discipline, one should do well, indeed, to take *cum grano salis* the repetitive and overlapping intellectual ado that, notwithstanding the intrinsic interest of some of the contributions, the debates on the Spanish Classics of International Law continue to generate

among both Spanish and foreign international jurists and legal historians. Recent years have, moreover, witnessed a new peak of scholarly interest on the legal-political evolution of the almost 40 years’ long dictatorial regime of General Franco and of the Spanish Civil War. New monumental research volumes have detailed the magnitude of what Paul Preston has called the *Spanish Holocaust*<sup>7</sup>, which took place during which was once known as the “last great cause”<sup>8</sup> and its long repressive aftermath.<sup>9</sup> The Spanish Historical Memory Act enacted on late 2007 has likewise contributed to refashion the Spanish case as one of “late transitional justice”<sup>10</sup>, thus fuelling a reassessment of what, for years, was praised as the “role-model” that the Spanish Transition in the late 70ies provided for other transitioning countries to democratic forms of government.<sup>11</sup> However, Spanish international lawyers writing in the post-Franco’s era, who have much to do with the fact that the

5. Ignacio DE LA RASILLA DEL MORAL, “Francisco de Vitoria’s Unexpected Transformations and Reinterpretations for International Law”, *International Community Law Review*, vol. 15 (2013), p. 298-300.

6. Emmanuelle TOURME JOUANNET, Anne PETERS, “The Journal of the History of International Law: A Forum for New Research”, *Journal of the History of International Law*, vol. 16 (2014), p. 1-8.

7. Paul PRESTON, *The Spanish Holocaust* (New York: HarperPress, 2012).

8. The term was popularized by Stanley Weintraub, *The Last Great Cause* (New York: Weybright and Talley, 1968).

9. Paul PRESTON, *The Politics of Revenge: Fascism and the Military in Twentieth-Century Spain* (Winchester: Unwin Hyman, 1990).

10. Josep M. TAMARIT SUMALLLA, *Historical Memory and Criminal Justice in Spain. A Case of Late Transitional Justice* (Cambridge, UK: Intersentia, 2013).

11. *Ibid.*, p. 118-123.

study of the Spanish history of international law in the 19th and 20th centuries remains, as already noted, almost in its infancy, still hesitate in engaging with the intra-disciplinary past of the international legal discipline in Spain. As if a complete forgetfulness of the intra-disciplinary history of international law in Spain was preferable to risking it from been tainted by “Vergangenheit, die nicht vergehen will” (“a past that will not pass”), a veil of obliviousness continues to occlude many promising lines of research into the Spanish History of international law of the 19th and 20th centuries and to block the development of a panoply of scholarly ramifications for the field of the European history of international law. Against this background, this work attempts to continue nurturing new research in the intellectual history of international law in Spain. In particular, it highlights the emancipatory role of earlier attempts to renovate the study of the history of international law in pre-democratic Spain by linking the short-lived period of methodological innovation experienced between 1964-1968 by *Revista Española de Derecho Internacional (REDI)* with the emblematic monthly publication *Cuadernos para el Diálogo* (1963-1978).

Within the limits imposed by the respect of the required length of this contribution, the first part provides a background perspective

of the foundation of *REDI* and of its early development, the second part provides overview of the first epoch of *Cuadernos para el Diálogo* and examines how the publication of articles on foreign affairs and international law in its pages was conceived as a strategy to skip the crude Francoist censorship at the time. This shall serve as a background to the explanation of the role of history of international law in the renovating guidelines attempted by *REDI* under the direction of Aguilar Navarro, who was also a founder of *Cuadernos para el Diálogo*, between 1964-1968. The parallel examination of *REDI* and *Cuadernos para el Diálogo* is important because, as Spanish historians know well, despite the many volumes consecrated to the examine the history of *Cuadernos para el Diálogo*, this is the first attempt by an international legal scholar at linking both and it represents, in this sense, a contribution—even if a modest one—by the so far neglected field of the history of international law in Spain to the History of Spain during Francoism. Moreover, and, more importantly, this linkage also shows how the project of study of the Spanish history of international law in the 19th and 20th centuries during this period of the Franco’s regime was part and parcel of a larger project of internal intellectual *dissent* within the Spanish international legal academia. It should be obvious

that international lawyers, as an elite group charged with the study and practice of the external relations of the Spanish state, had traditionally been associated, since the brutal depuration of the Spanish universities and the death and exile of many liberal intellectuals in and after the Spanish Civil War, to the external projection of the postulates of the Franco's regime. This section, will in particular, examine how this internationalist historiographical project materialized in the inclusion of a new section in *REDI* termed "Spanish Sources of International Law" which wore the subtitle of "Notes for the History of Spanish Internationalist Thought". It shall also briefly link the latter with the historiographical turn in the field of the history of Spain of the 19<sup>th</sup> and 20<sup>th</sup> centuries in the 1960ies. The conclusion reflects on the continuous intellectual vitality of the short-lived historiographical project attempted by some members of this generation of Spanish international jurists in the late Franco's era in view of the post-democratic indifference of Spanish international lawyers to face the mirror of their own past.

## Towards the Second Epoch of *redi* (1948-1964-1668)

*REDI* was founded in 1948 at the height of the Francoist regime autarkic period triggered

by the General Assembly's Resolution 39 (I) of 12th December 1946 where the United Nations declared itself,

"convinced that the Franco Fascist 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 impossible the participation of the Spanish people with the peoples of the United Nations in international affairs".<sup>12</sup>

*REDI* walked on the footsteps of a series of earlier short-lived international law journals that had existed in Spain during the late nineteenth and early twentieth centuries. In 1887, after the establishment of both *Revue de droit international et de législation comparée* (1869) and the *Institut de droit international* (1873), Alejo García Montero brought into being *REDI, Legislación y Jurisprudencia Comparadas* in 1887.<sup>13</sup> Some years thereafter, the Marquis de Olivart launched *Revista de Derecho Internacional y Política Exterior*. Published between 1905 and 1912, Olivart's journal anticipated the change of tide initiated by

12. United Nations' General Assembly's Resolution 39 (I) of 12<sup>th</sup> December 1946.

13. On the foundation of *Revista de Derecho Internacional, Legislación y Jurisprudencia Comparadas*, see also available in English, IGNACIO DE LA RASILLA, "The Study of the History of International Law in the Short Spanish Nineteenth Century", *Chicago-Kent Journal of International and Comparative Law*, vol. 13, (2013/2), p. 122-150.

the American Journal of International Law (AJIL) that, according to Koskenniemi, had broken in 1907 “the pattern (if it was such)”<sup>14</sup> of earlier nineteenth century journals on international law of “not pointing to any national and regional allegiance” in their title.<sup>15</sup> In 1920, reacting to the establishment of the League of Nations, the *British Yearbook of International Law* would add itself to new breed of (“national”) international law journals.<sup>16</sup> Both *Revista Mexicana de Derecho Internacional* (1919) and *Revista Argentina de Derecho Internacional* (1920) had done it already under the Pan-American influence of J. Brown Scott<sup>17</sup> who was the secretary of the Carnegie Endowment for International Peace and first Editor-in-Chief of *AJIL*. In

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14. Martti KOSKENNIEMI, “The Case for Comparative International Law”, *Finnish Yearbook of International Law*, vol. 20 (2009), p. 1.

15. On the foundation of the American Society of International Law and its journal, see e. g. Ignacio DE LA RASILLA DEL MORAL “The Ambivalent Shadow of the Pre-Wilsonian Rise of International Law”, vol. 7, *Erasmus Law Review* (2014/2), Special issue on “The Great War and Law—The Lasting Effects of World War I on the Development of Law”.

16. James CRAWFORD, “Public International Law in 20th Century England”, in Jack BEATSON, Reinhard ZIMMERMANN (ed.), *Jurists Uprooted: German-Speaking Emigré Lawyers in Twentieth Century Britain* (Oxford: Oxford University, 2004).

17. On the influence of James Brown Scott on the evolution of international law in Latin-America in the 1910s, see Ignacio DE LA RASILLA DEL MORAL, “Francisco de Vitoria’s, *op. cit.*, p. 298-300 (cf. note 5).

the aftermath of the Second World War, the *Jahrbuch für Internationales Recht* (known in English as *German Yearbook of International Law*) and *REDI* joined this “national” trend.

The triumvirate of founders and permanent members of Directorial Board of the new Spanish journal of International Law became highly influential figures in the Franco’s foreign-policy establishment. Fernando Maria Castiella (1907-1976) was the longest serving Spanish Minister of Foreign Affairs (1957-1969) of the 20<sup>th</sup> Century, while Federico de Castro (1903-1983) became the first Spaniard (with the only exception of Rafael Altamira during the League of Nations’ period) who has sat as permanent judge (1970-1979) on the bench of the principal judicial organ of the United Nations.<sup>18</sup> The third of them, Antonio de Luna (1901-1967) was an esteemed international legal theorist who had transposed and elaborated, through his university teaching in Madrid in the late 20ies and early 30ies on the doctrines on the binding force of international law penned by Hans Kelsen, Alfred Verdross and other leading interwar legal philosophers. Antonio de

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18. On Rafael Altamira, see Yolanda GAMARRA CHOPO, “Rafael Altamira y Crevea (1866-1951): The International Judge as ‘Gentle Civilizer’”, *Journal of the History of International Law*, vol. 14 (2012), p. 1-49.

Luna, despite having served in office during the Second Spanish Republic<sup>19</sup> when according to Truyol y Serra he had provided the “Spanish doctrine of public international law with something as essential to any discipline as an update general theory”<sup>20</sup> presided over university depuration commissions after the Spanish Civil War<sup>21</sup> at around the same time when he was setting up the *Instituto Francisco de Vitoria de Derecho Internacional* in 1940<sup>22</sup> of which he would remain its director until 1963. After Spain had gained entrance to the United Nations in 1955, de Luna would become legal adviser to the Minister of Foreign Affairs and the first Spanish member of the International Law Commission (1962-1966) where he participated in the drafting of the Vienna Convention on the Law of Treaties.

For its first fifteen first years (1948-1963), under the direction of Antonio de Luna,

*REDI*<sup>23</sup> was biannual, except for the period 1949-1952 when it was four-monthly.<sup>24</sup> In terms of its internal structure, *REDI* was, at the time, composed by four separate sections. The most extensive of them,<sup>25</sup> “doctrinal studies”, was divided in the sub-sections of “Studies” and “Notes”. Two hundred and fifteen works of a “markedly speculative”<sup>26</sup> character were published in both categories<sup>27</sup> including thirty five contributions by foreign authors (of which twenty two by not native authors who were translated into Spanish). The foreign contributions were inaugurated in 1949<sup>28</sup> by Carl Schmitt whose works on international law in the 40ies and 50ies abound in references to Spain as the last guardian of the “great Christian European tradition” that was preserved in the tradition of *ius gentium* of the School of Salamanca.<sup>29</sup> The warm reception

19. Antonio TRUYOL Y SERRA, « Don Antonio de Luna García », *Estudios Homenaje*, vol. XXI (1968/2), p. 159.

20. *Ibid.*, p. 164.

21. Jaume CLARET MIRANDA, *El atroz desmoche: la destrucción de la universidad española por el franquismo, 1936-1945*, Barcelona (2006/1), p. XII. According to the historical research Claret Miranda, de Luna served as President of the Commission for the Depuration of the Madrid’s University Personnel.

22. On Fernando Maria Castiella and the history of international law in the early Franco’s years, see Ignacio DE LA RASILLA DEL MORAL, “The Fascist Mimesis of Spanish International Law”, *op. cit.*, p. 207-236 (cf. note 1).

23. See in a rare work in the almost barren field of the history of international law in Spain of the 20<sup>th</sup> century, Antonio REMIRO BROTONS, « El discreto encanto-y desencanto-de la *Revista Española del Derecho Internacional* (1948-1978) », *Estudios de Derecho Internacional. Libro-homenaje al Prof. A. Miaja de la Muela*, vol. I (1979), p. 123-140.

24. *Ibid.*, p. 124.

25. *Ibid.*, p. 23-27.

26. According to Antonio REMIRO BROTONS, « El discreto encanto-y desencanto-de la *Revista Española del Derecho Internacional* (1948-1978) », *op. cit.*, p. 124 (cf. note 23).

27. *Ibid.*, p. 124.

28. *Ibid.*, p. 125.

29. See further José Antonio LÓPEZ GARCÍA, « La presencia de Carl Schmitt en España », *Revista de Estudios Políticos*

of Carl Smith's works in Spain<sup>30</sup> is unsurprising at a time when Francoist ideological spiritual model was being mirrored in an internationalist imaginary which had transposed the ultra-national-Catholicism flagged by the regime as one of central elements of the work of Spanish international lawyers during the period. This cultivation of traditional historical themes, which echoed the imperial Spanish internationalist tradition, the delving into natural law schools of international legal thought and into the Spanish classics of international law, would find an echo on the "marked thematic centers of doctrinal interest during the first epoch"<sup>31</sup> of *REDI*. These mainly included "studies on the Spanish school of *ius gentium*, essays on war and peace and the problematic of criminality of war and crimes against humanity"<sup>32</sup> during the period 1948-1963.

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(Nueva Época), n° 91, Enero-Marzo 1996, p. 139-169, p. 142 ; Augustín JOSÉ MENENDEZ, "From Republicanism to Fascist Ideology under the Early Franquismo", in Christian JOERGES, Navraj SINGH GHALEIGH (ed.), *Darker Legacies of Law in Europe* (Oxford: Hart Publishing, 2003), p. 337-360.

30. Carl SCHMITT, *The Nomos of the Earth in the International Law of the *Ius Publicum Europaeum**, Oxford, 2003 (originally published as *Der nomos der erde im völkerrecht des *ius publicum europaeum** in 1950).

31. Antonio REMIRO BROTONS, « El discreto encanto – y desencanto – de la *Revista Española del Derecho Internacional* (1948-1978) », *op. cit.*, p. 129 (cf. note 23).

32. *Ibid.*, p. 129

In 1964, coinciding with the appointment of Antonio de Luna as Ambassador in Colombia, began a second period of *REDI* under the influence of the "renovative line, or at least modernizing spirit"<sup>33</sup> fostered by its second director, Mariano Aguilar Navarro (1916-1992). 1964, in what historians call the "*mesofrancoism*", was also the year when the regime's propaganda was celebrating "Twenty-five Years of Franco's Peace" with all due pomp and intellectual fanfare put at the service of boosting the figure of the *generalísimo*, *caudillo of Spain only responsible before God and History*. The revitalizing measures that Aguilar Navarro, who had served as editor-in-chief of *REDI* from 1960 to 1963, and his editorial team would incorporate to *REDI* in its "second epoch"<sup>34</sup> were addressed at reflecting the "new premises and the partly different problems and methodologies"<sup>35</sup> which they argued were, by then, occupying a new generation of Spanish international jurists. Aguilar set up the guidelines of his renovating new program in "Tasks of the

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33. Manuel MEDINA ORTEGA, « Notas para la historia del pensamiento internacional español : La teoría de las relaciones internacionales de Ortega y Gasset », *Anuario de Derecho Internacional*, vol. III (1976), nota inicial, p. 349.

34. This mention was expressly included in the cover of the journal where it replaced the figure of Francisco de Vitoria which has presided over it since its foundation.

35. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española de Derecho internacional público », *Revista Española de Derecho Internacional*, vol. XVII (1964/4), p. 502.



Spanish doctrine in international in Public International Law”—a programmatic article written in order to boost the scientific spirit of a new Spanish “legal realism”.<sup>36</sup> The period (1964-1968), when Aguilar Navarro occupied the helm of *REDI* to convey a scientific generational challenge by Spanish international law to the dominance of ancient methodologies, also meant a breakthrough in the study of the history of international law in Spain.<sup>37</sup>

Indeed, this historiographical project part and parcel of the generational and freshly progressive spirit embodied by a number of authors who, in the words of Aguilar Navarro, were “looking for an interdisciplinary exposition, longing to put in practice new methodological attitudes which try to escape all kinds of mutilating monisms—aware of the need to translate in a positive and institutional reality the new international situation”.<sup>38</sup> An offspring of this methodological renovation was a new critical attitude towards the Spanish classics of international law. Complementarily, some of these authors engaged in a pioneer attempt at “analyzing and reconstructing the Spanish internationalist thought of

the 19th and 20th centuries” not “merely to square the historical dimension but in order to decisively influence the present of our own internationalist thought”.<sup>39</sup> Deeply committed to these historiographical initiatives was the helmsman of the new epoch of the Spanish doctrine’s main international vehicle of scientific expression, Mariano Aguilar Navarro who was also one of five original founders and stakeholders of Edicusa, the publishing company which had been established in 1963 to financially support the publication of the monthly journal *Cuadernos para el Diálogo* (1963-1978). Directed by Joaquin Ruiz-Gimenez (1913-2009), a former Ambassador to the Holy Site (1948-1951) and former Minister of Education (1951-1956), *Cuadernos para el Diálogo* is largely acknowledged to have served as a platform for an intellectual and political “transition *avant-la-lettre*”<sup>40</sup> in pre-democratic Spain.

## An Evolving Dissident *Intelligentsia*

*Cuadernos para el Diálogo*<sup>41</sup> was a highly influential cultural-political monthly

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36. *Id.*

37. *Id.*

38. *Id.*

39. *Ibid.*, p. 504.

40. Pedro ALTARES « Cantera de políticos de la democracia », *Cuadernos para el Diálogo*, número extraordinario XXV Aniversario, Asociación de la Prensa de Madrid, diciembre 1988.

41. The specific works devoted to it such as Javier MUÑOZ SORO, *Cuadernos para el diálogo (1963-1976) : una*

journal of demo-Christian orientation which from its first issue released in October 1963 defined its editorial line as “liberal and personalist” as well as “social and communitarian”; in other words, as a “synthesis of liberalism and socialism against the backdrop of Christian humanism”.<sup>42</sup> His director was Joaquin Ruiz-Jimenez, a former Minister of Education (1951-1956) who, since 1960, has held a chair of Philosophy of Law in Madrid. Since in its inception, the journal was very influenced by the Encyclical *Pacem in Terris* of John XXIII and by the Pope’s doctrine of “*aggiornamento*” which inspired the works of the Second Vatican Council (1962-1965). The journal, which placed itself “outside the walls of the regime”<sup>43</sup>, was born with the declared goal of “integrating in a national written dialogue persons of progressive ideas of the regime and those belonging to the democratic

opposition without any exclusion”.<sup>44</sup> Its editorial line would evolve in accordance with the own political evolution of his founder<sup>45</sup>; that is, along proto-liberal democratic tendencies during its second epoch (1963-1968) and, during its third “epoch” (1976-1978—when it became published as a weekly journal) in a multi-party vein with a more clearly defined socialist orientation.<sup>46</sup> A token of the important role the journal played throughout the intellectual transition to democracy in Spain is that after the passing of the 1978 constitution in Spain more than 100 persons who had been associated, in one manner or other, with the journal, stood for election to the Senate and the Congress of Deputies; these candidates covered all the ideological-political spectrum and many of them were, indeed, elected to both the Spanish Senate and the Congress of Deputies.<sup>47</sup>

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*historia cultural del segundo franquismo*, Madrid, Ediciones Marcial Pons, 2006 ; Francisco Javier DAVARA TORREGO, « *Cuadernos para el diálogo* : un modelo de periodismo crítico », doctoral thesis under direction of José Luis Martínez Albertos, presented in Complutense University of Madrid in 2001, accesible at [http://dialnet.unirioja.es/servlet/tesis?codigo=16472] (last accessed, June 2014), p. 238-243.

42. María PAZ PANDO BALLESTEROS, « *Cuadernos para el Diálogo* : un estado de la cuestión », *Estudios de Historia contemporánea*, vol. 25 (2007), p. 374.

43. Francisco Javier DAVARA TORREGO, « *Cuadernos para el diálogo* », *op. cit.*, p. 311 (cf. note 41).

44. Gregorio PECES-BARBA, « Una profecía histórica », *Cuadernos para el Diálogo*, número extraordinario XXV Aniversario, Asociación de la Prensa de Madrid, diciembre 1988, p. 86-87.

45. Francisco Javier DAVARA TORREGO, « La aventura informativa de *Cuadernos para el diálogo* », vol. 10, *Estudios sobre el Mensaje Periodístico*, p. 208.

46. *Ibid.*, p. 213-16.

47. Including Mariano Aguilar Navarro who became senator in representation of the Socialist Party in 1977. When the socialist government of Felipe Gonzalez was elected in the 1982 general elections, Joaquin Ruiz-Gimenez became the first Spanish Ombudsman (1982-1987) of the democratic period.

However, the road to democracy was very far from being a smooth one; since its inception, *Cuadernos para el Diálogo* had received a lukewarm—when not a hostile—welcoming from the Franco’s regime. This led to defections and also to the need to resort to subtle maneuvers to negotiate the ever-present censorship—numerous articles were censored, several issues were kidnapped, some of the collaborators of *Cuadernos para el Diálogo* were expelled or suspended from their university chairs, the director and the editorial staff had to face economic sanctions and some even received judicial sentences.<sup>48</sup> Interestingly from the perspective of the parallel development of new methodological perspectives in international law is to mention the subtle strategies occasionally employed to skip the firm grip of the Ministry of Information and Tourism and the censors’ harassment was an exaggerated obsolescence in the use of a heavy-charged academic language as well as the decision to publish articles and essays on international topics. Menendez del Valle, one of the most assiduous collaborators to the discussion of international affairs in its pages during the first years of the journal has, indeed, confirmed that “censorship was precisely one of the factors that made more acute the

sensitivity of *Cuadernos* towards international problems”.<sup>49</sup> Unsurprisingly, among the most diligent collaborators to articles and editorials on international politics—covering international developments in Greece, Chile, Israel, the Middle East, as well as topical issues such as the cultural revolution in China or in Latin-American countries—were a number of international jurists and contributors to the “second epoch” of *REDI*. Prominent among them were the own director of *redi*, Mariano Aguilar Navarro<sup>50</sup>, and one of his disciples<sup>51</sup>, and the leading spirit of the new historical section of *REDI*, “Notes for the History of Spanish Internationalist Thought”, Roberto Mesa.<sup>52</sup>

The efforts to skip censorship through the treatment of international questions would also find a parallel vehicle of expression in *REDI*. A good example of this parallel orientation is the inclusion in 1964 of the first

48. FRANCISCO JAVIER DAVARA TORREGO, « *Cuadernos para el diálogo* », *op. cit.*, p. 343-345 (cf. note 41), on the censorship suffered by *Cuadernos* between 1963-1968.

49. EMILIO MENÉNDEZ DEL VALLE, « La sensibilidad ante los problemas internacionales », *Cuadernos para el Diálogo*, número extraordinario XXV Aniversario, Asociación de la Prensa de Madrid, diciembre 1988, p. 7.

50. MARIANO AGUILAR NAVARRO, « La oposición política en África », *Cuadernos para el Diálogo* (abril 1964) ; MARIANO AGUILAR NAVARRO, « La ONU y sus grandes adversarios África », *Cuadernos para el Diálogo* (octubre 1965).

51. ROBERTO MESA GARRIDO, « La Guerra civil y el derecho internacional », tesis doctoral dirigida por Mariano Aguilar Navarro, Universidad de Sevilla, 1962.

52. ROBERTO MESA GARRIDO, « Marruecos y el mito de la independencia africana », *Cuadernos para el Diálogo*, n° 51 (octubre 1967).

scientifically objective analysis published by a Spanish international legal scholar, writing in Spain, of the Soviet theory of international law<sup>53</sup> as well as the first article ever published in redi by an international lawyer from a Socialist country. The first scientific engagement by the Spanish doctrine with the Soviet theory of international law was authored by Aguilar Navarro himself on the occasion provided to him by a review of prof. Tunkin's *Das Völkerrecht der Gegenwart. Theorie und Praxis*.<sup>54</sup> Aguilar Navarro's work consisted of a very lengthy account of the complex historical and ideological premises on which the URSS's approach to international law was grounded. Explicitly justified at filling a scientific lacuna in the Spanish academy<sup>55</sup>, Aguilar adopted a historical perspective to examine what he termed "the neuralgic points" of the most important phases in the process of the Russian adaptation to general international law. This historical introduction was followed by an analysis of the functional and configuring signification that the Russians have attributed to

international law and international institutionalization over time—a problematic the examination of which led Aguilar to analytically disentangle the special signification that Marxism attributed to the notion of power. In the last part of his essay, Aguilar focused his attention on the examination of the significance of the structural elements of the international order as seen from the Soviet perspective. Aguilar's academic tackling of the URSS's approach to international law was informed by the academic guidelines of a new "Spanish realism which should confront the international phenomenon by trying to capture its principal dimensions: the nakedly political and the essentially ethical".<sup>56</sup> This review essay was, perhaps not surprisingly, published barely some months after the derogation of Article 12 of the 1940 *Law for the Repression of Free-Masonry and Communism* (LRMC) which defined communists as "agitators, leaders and active collaborators of Soviet, Trotskyite, anarchist or similar propaganda or activity" a condition which was punishable with sentences up to 30 years of confinement and the Special Tribunal instituted under the LRMC which, according to the Court sessions records, had

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53. Mariano AGUILAR NAVARRO, « A propósito de un libro del profesor Tunkin », *Revista Española de Derecho Internacional*, vol. xvii (1964/2).

54. Gregory I. TUNKIN, *Das Völkerrecht der Gegenwart. Theorie und Praxis*, Berlin, Staatsverlag der Deutschen Demokratischen Republik, 1963.

55. *Ibid.*, p. 169.

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56. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española », *op. cit.*, p. 502, 510 (cf. note 35).

processed 26.711 cases until that date, was also abolished.<sup>57</sup>

This generational and methodological swift of the mid-60ies was coincidental with a period where Franco's regime was transitioning from the "overtly ideological spiritual model previously dominant to the implicitly conservative technocratic model"<sup>58</sup> that would characterize the 60ies. Politically, the foreign-policy atmosphere of the early 60ies was marked by the regime's attempt to integrate itself in the European Community—to which membership Spain unsuccessfully applied in 1962—without renouncing to its principles of its so-called "organic democracy".<sup>59</sup> This period of certain opening of the Regime involving, on the domestic plane, the first domestic attempts at easing the strictness of the censorship,

the introduction of liberal economic measures and the initiation of discussions on religious freedom and, on the international plane, by the formal acceptance by Spain in 1962 of the decolonizing criterion at the United Nations. It also witnessed the gradual emergence and extension of a phenomenon of internal intellectual dissent with political relevance in Spain which had been previously fostered by literary authors<sup>60</sup> and student movements. The "student problem"<sup>61</sup> had, as it is well known, already triggered a ministerial crisis by the mid-50ies. In the early 60ies, the "student problem" began again to require the serious attention of the *Consejo de Ministros* and was the object of discussions by ad-hoc organized governmental bodies. These efforts were oriented a bridging the so-called "generational gap" and disaffection in those university students who had not actively participated in the Civil War—indeed, a number of Phalangist plans were drafted to try to re-channel their worries and to ameliorate their political socialization. However, behind the surface of these palliative measures, a well-known flow of students'

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57. However, the derogation of the LRMG did not affect the criminal status of free-masonry and communism—these remained crimes subjected to police jurisdiction and were transferred to the newly created Tribunal of Public Order.

58. Alicia ALTED, "Education and political control", in Helen GRAHAM, Jo LABANYI (ed.), *Spanish Cultural Studies: An Introduction. The Struggle for Modernity* (Oxford: Oxford University Press, 1995), p. 200; Rosa PARDO SANZ, « La etapa Castiella y el final del Régimen, 1957-1975 », in Javier TUSSELL, Juan AVILÉS, Rosa PARDO (dir.), *La política exterior de España en el siglo XX*, Madrid, UNED-Biblioteca nueva, 2000, p. 355.

59. *Cuadernos para el Diálogo* participated actively on the debates about the European Economic Community (EEC). See among many others the editorial titulado « La nueva oportunidad de España ante el Mercado Común », junio 1964.

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60. For a detailed analysis specially through several manifestos addressed to the authorities since 1962, see Pere YSAS, *Disidencia y subversión: la lucha del régimen franquista por su supervivencia, 1960-1975*. Barcelona, Editorial Crítica, p. 47-74.

61. *Ibid.*, p. 1-46.

protests, with international repercussions, soon revealed the underlying attitude of steadfastness lurking behind the best face of the regime and a campaign of correlate repression *vis-à-vis* the extension of dissidence ensued. Part of this repressive policies, was how, in 1965, three eminent *catedráticos*<sup>62</sup> were expelled from their chairs, and two other ones were suspended for supporting the students' claims at Madrid's university. Among the latter, was, precisely, the helmsman of the new epoch of the Spanish doctrine's main international vehicle of scientific expression, Mariano Aguilar Navarro. In 1966, showing once more the relationship of communicating vessels that existed between the journals at that time, the same year that J. Ruiz Gimenez, was forced to step down as director of *Cuadernos para el Diálogo*<sup>63</sup>, Aguilar, who has been suspended from his chair of private international law in Madrid for two years, published in *Cuadernos para el Diálogo* a controversial article called "Libertad de cátedra, libertad de pupitre" where he denounced the lack of

freedom that the State imposed on university professors to express their ideological views.

Twenty years before, however, at the peak of the "Fascist Mimesis of Spanish International Law"<sup>64</sup>, on the occasion of a noted conference pronounced in Madrid by Carl Schmitt that was qualified "as the instance in which with greater intellectual authority has been defended the theory of *Lebensraum* in Spain"<sup>65</sup>, Aguilar Navarro had declared that "political and military necessity has brought Schmitt to the position we defend by conviction, independently of the avatars of war".<sup>66</sup> Aguilar Navarro's article was published in the flag-ship of the think tank of *Phalange*, following an article by Carl Schmitt that had been translated into Spanish for this journal. This sort of ideological evolution among the most revolutionary committed phalangist elites was not completely alien to the evolving nature of the Spanish *National Movement* within which a number of militants disenchanted with the system transferred over

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62. The represaliated professors were José Luis López López-Aranguren, Enrique Tierno Galván, Agustín García Calvo, Santiago Montero Díaz and Mariano Aguilar Navarro.

63. A new Law of the Press and Print issued in Spain in 1966 forced Joaquín Ruiz-Giménez who directed *Cuadernos* between 1963-1966 to step down for not being officially accredited as a journalist. However, he kept the control of the journal; Joaquín RUIZ-GIMÉNEZ, « Hasta luego », *Cuadernos para el Diálogo*, n° 38, noviembre 1966, p. 5.

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64. IGNACIO DE LA RASILLA DEL MORAL, "The Fascist Mimesis of Spanish International Law", *op. cit.* (cf. note 1).

65. CARL SCHMITT, *Cambio de estructura del derecho internacional* (included in a supplementary sheet to *Revista de Estudios Políticos*), Madrid, Instituto de Estudios Políticos, 1943, p. 1-36.

66. MARIANO AGUILAR NAVARRO, « La guerra en el orden internacional », *Revista de Estudios Políticos*, vol. 13 (1944) p. 33.

the years their ideological militancy intact to other creeds—including the adoption of some form of Marxism. This phenomenon has been retrospectively termed “liberal phalangism”<sup>67</sup> a controversial term of the art used by contemporary Spanish historians engaged in an often bitter and polemicist debate to describe the evolution of certain intellectuals of the Franco’s regime who greatly influenced the post-democratic Spanish *intelligentsia* and often extended their own highly remarkable careers far beyond the Franco’s period. Whereas this “type of development involved relatively small numbers, constituted a major channel for the creation of a dissenting *intelligentsia*”<sup>68</sup>, also influenced the slow emergence of a new generation of Spanish international lawyers—a sector who has been either allied or submissively integrated, since the end of the Civil War, with the foreign policy of the Francoist regime—and whose evolving views—although not without turning backs—would accompany the

path towards the democratic transition of Spain in the 70ies.

Having shown the parallel course in *Cuadernos para el Diálogo* of a larger project of internal intellectual *dissidentia* and the close relationship of the latter with the helmsman of the *REDI*, the next section will, within the limits imposed by the required length of this contribution, examine how a parallel internationalist historiographical project at *REDI* materialized in the inclusion of a new section in *REDI* termed “Spanish Sources of International Law” which wore the subtitle of “Notes for the History of Spanish Internationalist Thought” and briefly link the latter with the historiographical turn in the field of the history of Spain of the 19<sup>th</sup> and 20<sup>th</sup> centuries that took place in the 1960ies.

### ***REDI*—Beyond the Spanish Classics of International Law**

The appointment of Antonio de Luna, the long-standing director of *REDI*, to an ambassadorial position in 1963, triggered, as already seen, the appointment of Mariano Aguilar Navarro, professor of Private international law in Madrid, who had served as editor-in-chief of *REDI* from 1960 to 1963, to the helm of *REDI*. Aguilar erected his renovating project over the

67. See the excellent contributions by Manuel Jesus LOPEZ BARONI, « El falangismo liberal y la transición española (I) », *Revista Internacional de Pensamiento Político*, vol. 7 (2012), p.467-490 ; Manuel Jesus LOPEZ BARONI, « El falangismo liberal y la transición española (II) », *Revista Internacional de Pensamiento Político*, vol. 8 (2013), p. 343-365.

68. Barry JORDAN, “The Emergence of a Dissident Intelligentsia”, in Helen Graham, Jo Labanyi (ed.), *Spanish Cultural Studies*, op. cit., p. 252 (cf. note 58).

pillar of an emerging scientific generation. This who was being called upon to take up the challenge posed by a number of ongoing transformations which were taking place in Spain and in the world at the time. Aguilar set the ground for the incorporation of a new editorial team for the “second epoch”<sup>69</sup> of *REDI* which could reflect the works of new authors were beginning their “research from different premises and with the eyes set on different problems and methodologies”.<sup>70</sup> His attempt to channel in the “second epoch” of *REDI* the energies of this new scientific generation<sup>71</sup> was carried forward under the label of a new Spanish “legal realism”. This, according to its proponents, was one that would address “the factual dimension– without conditioning the nature of the facts and englobing all; the estimation of interests–in search for their human root and their social realization, their collective incardination; the scheme of values from which judgment is passed and behaviors are selected and, finally,

the technical construction of the system of norms”.<sup>72</sup>

Part and parcel of the multifaceted scientific renovation and structural modernization of the works of the Spanish international jurists sketched by Aguilar was what he termed a revision of “our attitude towards the classic”. This, in Aguilar’s view, require Spanish international jurists to engage in an exercise of “self-critique” in order to examine the extent to which “we might be prisoners of an inadequate assessment of what our classics were and this in function of a polemic yet not closed on our own past and origins as a nation, as a community with its own historical profile”.<sup>73</sup> Aguilar, indeed, highlighted how the Spanish classics of international law were, at the time, beginning to be “studied in a critical light– which is more and different than what it is usually understood as applying a critical methodology to the examination of documents–they are analyzed within a historical context–their own one–which is today observed with less simplification and unilateralism than in other epochs”.<sup>74</sup> However, it is crucial to understand that, while supportive of these revisionist efforts of the

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69. This mention which was expressly included in the cover of the journal where it replaced the figure of Francisco de Vitoria which has presided over it since its foundation.

70. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española », *op. cit.*, p. 502 (cf. note 35).

71. For detail, Antonio REMIRO BROTONS, « El discreto encanto–y desencanto–de la *Revista Española del Derecho Internacional* (1948-1978) », *op. cit.* (cf. note 23).

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72. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española », *op. cit.*, p. 502 (cf. note 35).

73. *Ibid.*, p. 503.

74. *Id.*



Spanish classics of international law, the underlying historical project led by Aguilar Navarro and his collaborators, especially Mesa Garrido, was that of creating a new scholarly space to “analyze, reconstruct the Spanish internationalist thought of the nineteenth century and early twentieth centuries”.<sup>75</sup> The renovating spirit to which the history of international law in Spain was associated, according to Aguilar, was a “commitment of far-reaching ambition; it is not just the wish to complete the historical dimension, of covering a new period. This task decisively influences the present of our own internationalist thought”.<sup>76</sup>

Product of these scholarly concerns with a new historical dimension of international law was the creation in *REDI* of a new section Spanish Sources of International Law—which wore the subtitle of “Notes for the history of Spanish internationalist thought”. The historical scientific project—which was without precedents in the field—<sup>77</sup>was conceived by Mariano Aguilar Navarro, Julio Gonzalez Campos, Roberto Mesa (also

member of the editorial board of *Cuadernos para el Diálogo*), Manuel Medina Ortega and Enrique Pecourt Garcia. It surged with the explicit purpose of “offering from different perspectives a vision of what have been the ideas and realities of international law in Spain”<sup>78</sup> and with the underlying intention to recover a lost historical continuity in the works of the Spanish doctrine by re-claiming the study of the works of the pre-Civil War generation of international lawyers “who had embarked on to the enormous task of giving to Spain new intellectual schemes, opening modern roads of study and teaching as the needed response of an obliged revision of attitudes falsely classic and inoperative traditional lures”.<sup>79</sup> However, only two very detailed and bibliographically rich research essays would see the light in *REDI*. The first one was a doctrinal bibliographical profile of one of the fathers of the internationalist thought in Spain<sup>80</sup>, Aniceto Sela y Sampil (1863-1935)—who could be framed pursuant to

75. *Id.*

76. *Id.*

77. In a complete different light, during the Spanish autarkic period, see Luis GARCÍA ARIAS, « Adiciones sobre la historia de la doctrina hispánica del Derecho internacional », in Arthur NUSSBAUM, *Historia del Derecho Internacional*, trans. Francisco Javier Osset, Madrid, Ediciones Revista de Derecho Privado, 1949.

78. Julio GONZALEZ CAMPOS, Enrique PECOURT GARCIA, Roberto MESA GARRIDO, Manuel MEDINA ORTEGA, « Notas para la historia del pensamiento internacionalista español : Aniceto Sela y Sampil, 1863-1935 », *REDI*, vol. xvii (1964/4), p. 561, nota.

79. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española », *op. cit.*, p. 502 (cf. note 35).

80. Julio GONZALEZ CAMPOS, Enrique PECOURT GARCIA, Roberto MESA GARRIDO, Manuel MEDINA ORTEGA, « Notas para la historia del pensamiento internacionalista español », *op. cit.*, p. 561-583 (cf. note 78).

Martti Koskenniemi's categorization<sup>81</sup> as one of the members of the first professional generation of international lawyers in Spain—the type of man, according to Aguilar “who has devoted his life to the great enterprise of giving Spain new intellectual schemes, of inaugurating modern approaches to study and teaching-methods, in a necessary response to an obliged revision of falsely classical attitudes and useless traditional baits”.<sup>82</sup> One year later, in 1965, Roberto Mesa examine a problematic of particular interest during the decolonization eras in a detailed study consecrated to the colonial Spanish thought in the 19th century.<sup>83</sup> Mesa, in this work, provides a very rich bibliographical basis of 19th century works by Spanish authors on the colonial question and examines, among others topics, the debates and intellectual tensions in nineteenth century Spain between,

“those who maintain and defend as valid the colonial principles included in the *Leyes de Indias* and others who want by using them as aggressive and enriching arguments to apply to the line of the

Spanish administration the experiences provided by other and radically opposed colonial systems like those practiced by the Netherlands and the United Kingdom”.<sup>84</sup>

The project of “Notes for the History of the Spanish Internationalist Thought” of offering from “different perspectives a vision of what the ideas and the realities of International law have been”<sup>85</sup> would be followed in parallel at *Revista de Derecho Español y Americano* in 1966 with another work on the scientific contribution of other of the first doctrinal cultivators of international law in Spain, Manuel Torres Campos (1850-1918).<sup>86</sup> The historiographical concerns of the Spanish internationalists would anticipate in a couple of years the publication of the one of the classical turning points in the study of the history of Spain in the 19th and early 20th centuries, the 1966's classic by Raymond Carr *Spain, 1808-1936*<sup>87</sup>. However both had in common a cultural, political and intellectual substratum which would exert a great

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81. Martti KOSKENNIEMI, *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2001).

82. Mariano AGUILAR NAVARRO, « Tareas de la doctrina española », *op. cit.*, p. 502 (cf. note 35).

83. Roberto MESA GARRIDO, Julio GONZALEZ CAMPOS, Enrique PECOURT GARCIA, « Notas para la historia del pensamiento internacionalista español : Algunos problemas coloniales del siglo XIX », *REDI*, vol. xvii (1965/3), p. 380-414.

84. *Ibid.*, p. 381.

85. Julio GONZALEZ CAMPOS, Enrique PECOURT GARCIA, Roberto MESA GARRIDO, Manuel MEDINA ORTEGA, « Notas para la historia del pensamiento internacionalista español », *op. cit.*, p. 561 (cf. note 78).

86. Antonio MARÍN LÓPEZ, « Notas para la historia del pensamiento internacionalista español : Manuel Torres Campos, 1850-1918 », *Revista de Derecho Español y Americano*, vol. 12 (1966), p. 125-154.

87. Raymond CARR, *Spain, 1808-1936* (Oxford: Oxford University Press, 1966).

influence over the gradual renovation of the study of the history of Spain since the mid-late 50ies. The Spanish internationalists, in their own particular mini-turn to the Spanish history of international law of the 19th and 20th centuries, were also reacting more or less consciously, to the influx of a series of factors including a “historiographical turn”, which would lead to “a radical change in the forms and concepts of historical analysis and in the topics of study of Spanish historiography and provoked, in the meantime, a decisive analytical and chronological shifting of the historiographical thought”<sup>88</sup> in Spain.

While the History of Spain as a field of study would turn in the 60ies “around a paramount concern: the problem of democracy in Spain”, that is, as highlighted by Fusi, the peculiarities of the liberal Spanish revolution of the 19th century, the failure of the country’s democratic experiences (1868-1874, 1931-1936), the problems for the construction of a stable and lasting democratic order”<sup>89</sup>, the attention of Spanish international lawyers to the history of international law in Spain in the 19th and 20th centuries

88. Juan PABLO FUSI, « El giro historiográfico : de Brennan a Carr », in Antonio MORALES MOYA, Juan Pablo FUSI AIZPURÚA, Andrés DE BLAS GUERRERO (dir.), *Historia de la nación y del nacionalismo español*, Barcelona, Círculo de Lectores, Galaxia Gutenberg, 2013, p. 1190.

89. *Ibid.*, p. 1195.

would, however, turn to be dramatically ephemeral. Indeed, less than four years after *REDI* inaugurated a new epoch, Luis Garcia Arias, a noted member of the post-civil war school of natural law<sup>90</sup>, reverted what he had earlier defined as the “unimportant editorial coup”<sup>91</sup> of 1964, thus bringing back the journal to the philosophical line of continuity lost in 1963.<sup>92</sup> With the return of *REDI* to its previous structure, the mention of the “second epoch” was eliminated and the effigy of Francisco de Vitoria went to occupy symbolically again the cover of *REDI* where it had been, originally, placed back in 1948 by its triumvirate of founders.<sup>93</sup> Disappeared from the pages of *REDI*, the project began “a long parenthesis” of which only a study on the theory of international relations in José Ortega y Gasset published in *Anuario*

90. Luis GARCÍA ARIAS, *Estudios de historia y doctrina del derecho internacional*, Madrid, Instituto de Estudios Políticos, 1964.

91. Luis GARCÍA ARIAS, « Fichero de Derecho Internacional Público de la *REDI* », *Anuario hispano-luso-americano de derecho internacional*, vol 3. (1967), p. 257 sq. The author had been a prominent contributor to the natural law of revival of international law in the early years of Francoism in Spain; Luis GARCÍA ARIAS, « Adiciones sobre la historia de la doctrina hispánica del Derecho internacional », in Arthur NUSSBAUM, *Historia del Derecho Internacional*, *op. cit.* (cf. note 77).

92. Antonio REMIRO BROTONS, « El discreto encanto–y desencanto–de la *Revista Española del Derecho Internacional* (1948-1978) », *op. cit.*, p. 132-135 (cf. note 23).

93. *Id.* for a synthetic evolution of the journal until 1978.

*Español de Derecho Internacional*<sup>94</sup> by one of the original upholders of the project would rescue it a decade later. What was still by the late 70ies a “suggestion palpitating with topicality”<sup>95</sup> according to Remiro Bretons will be continued by the same dates by the pioneering contribution of Celestino del Arenal, who provided a sketched “study of historical–genetic development of international relations in Spain since the mid-19th century”.<sup>96</sup> Although not *eo nomine*, this contribution was articulated by direct reference to, precisely, “the line of contributions done in the latest times oriented to set a ground which might allow for a better understanding of the Spanish internationalist thought in the 19th and 20th centuries”.<sup>97</sup>

## The Mirror of Tomorrow’s Conscience

This work has attempted to highlight the emancipatory role of attempts to renovate

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94. Manuel MEDINA ORTEGA, « Notas para la historia del pensamiento internacional español », *op. cit.*, p. 349-375 (cf. note 33).

95. Antonio REMIRO BROTONS, « El discreto encanto–y desencanto–de la *Revista Española del Derecho Internacional* (1948-1978) », *op. cit.*, p. 132-135 (cf. note 23).

96. Celestino DEL ARENAL, *La teoría de las Relaciones Internacionales en España*, Madrid, International Law Association, 1979, p. 8.

97. Celestino DEL ARENAL, « El estudio de las relaciones internacionales en la España del siglo XIX », *Revista de Estudios Políticos*, n° 163 (1979), p. 7.

the study of the history of international law in pre-democratic Spain by linking for the first time in the literature the short-lived period of methodological innovation experienced between 1964-1968 by *REDI* with the emblematic monthly publication *Cuadernos para el Diálogo* (1963-1978). This monthly journal, which fought a crude battle against censorship to be able to serve as platform to multiple debates by key political and intellectual figures since the mid-late sixties in Spain, it is today universally acknowledged to have played a fundamental role in nurturing the intellectual ground for the Spanish Transition to democracy. However, while the Demo-Christian journal *Cuadernos para el Diálogo* has generated an extensive amount of literature among historians of the Franco’s period, the fact remains that the 30 first years (1948-1968) of *REDI* are almost unstudied and still almost inaccessible to researchers<sup>98</sup> in a context where Spanish international lawyers had largely ignored the past of their own intra-disciplinary evolution in the 19th and 20th centuries and the intra-disciplinary evolution of international law in Spain during the Franco’s years. Against the cyclical attempts to build on a historically

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98. Not even its pre-democratic indexes are available in the website of the Spanish Association of Professors of International Law and International Relations which edits it [<http://www.aepdiri.org/>].

distorted mythology of the Spanish Classics of International Law without paying attention to the evolution of international law in the cradle of those same classics, this work, in linking the parallel histories of *Cuadernos para el Diálogo* and the Second epoch of *REDI*, has shown how the project of study of the Spanish history of international law in the 19th and 20th centuries during this period of the Franco's regime was part and parcel of a larger project of internal intellectual *dissentia* in which some members

of the Spanish international legal academia participated. In recovering from oblivion the history of the international jurist Mariano Aguilar Navarro and of an historiographical project, which was aborted during Franco's years and which, moreover, has been mysteriously discontinued and abandoned by Spanish international lawyers during the democratic period, this work has attempted to speak to the potential for vindicatory fairness of the History of International Law.

