

BOOK REVIEWS

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NEW APPROACH TO THE HISTORY OF INTERNATIONAL LAW¹

The present collective monograph under the joint editorship of Anatolii I. Dmitriev (Ukraine) and William E. Butler (England/United States), published on the eve of the 365th anniversary of the 1648 Peace of Westphalia, is an augmented and revised version of a volume that appeared in 2008 in the Ukrainian language. This is the first positive experience in Ukraine of combining the efforts of noted specialists in international law from Ukraine and the English-speaking world who have addressed one of the complex issues of fundamental legal research – the history of international law. The second edition has appeared in one of the official languages of the United Nations – the Russian language, which will facilitate familiarization with it in a large number of countries.

The monograph has a logical structure making it possible to fully and comprehensively enlarge the concept of Dmitriev concerning the periodization of international law. The editorial introduction sets out the motivation of the authors, those motivating forces of approaches to scholarship which enable this edition to be a more profound one than that of 2008. In this edition Dmitriev, Pro-Rector for Scientific Work at the Gorlov Regional Institute of the Open International University for the Development of Man, is joined by N.-T. Anoshina, from the Ministry of Justice of Ukraine; Iu. A. Dmitrieva, from the Supreme Economic Court of Ukraine; E.S. Kolisnichenko, from the Ukrainian State University of Finances and International Trade; and A. V. Zadorozhnyi, President of the Ukrainian Association of International Law. In the usual manner of collective Ukrainian works, the ultimate product is not a collection of articles, but an integrated text which reads seamlessly from one segment of the volume to another.

The volume consists of three sections. Section I, “Theoretical-Methodological Foundations of Research of the History of International Law”, represents a certain bridge between the Ukrainian and Anglo-American schools of international law, which is itself an innovation in modern international legal studies. The chapter by William Butler, “History of International Law: Branch of Theory and Instructional Discipline”, adds to the volume undoubtedly a positive influence of western approaches to an understanding of the subject-matter. An important part of the volume is based on an analysis of the civilized values shared by peoples, which makes it possible to overcome the purely ideological approach to international law characteristic of the “Cold War”.

Special emphasis is placed in Butler’s chapter on the role of the periodization of the history of international law considered through the prism of a number of works by writers on the general history of international law. Among them, Ward, Wheaton, Gardner, Oppenheim, Maccoby, Nussbaum, Preiser, Grewe, and others.

Butler’s view on the history of international law as a branch of theory is of interest. He has a high opinion of the contribution of P. G. Vinogradoff to developing the concept of an “international system”, together with his follower, Georg Schwarzenberger. The distinctive contributions of the “Spanish School of International Law” are shown, together with the systemic character of Vattel’s interpretation of international law.

The complex issue of the chronological scale of the periodization process of how international law came into being and developed is addressed in Dmitriev’s chapter “Conception of the Periodization of the History of International Law”, which methodologically determines the structure of the entire volume. The

¹ Review of the monograph: Дмитриев, А.И., Батлер, У.Е. (ред.) (2013). *История международного права*. Одеса: Фенікс (Серія «Міжнародне право»).

chronological scale proposed (the notion of which was first published by Dmitriev in a German publication, *Rechtstheorie* (2003)) divides the entire civilized period of regulating international relations into two great epochs: the epoch of local (or regional) international law and the epoch of universal international law. Each epoch has its own subperiods explored in the volume.

Section 2, “The Epoch of Local (or Regional) International Law”, describes the distinctive features of international law of the ancient period, dwelling on Mesopotamia, Egypt, China, and India. Special attention is devoted to European international law before 1648, which encompassed ancient Greece, the Roman-Hellenic period, and the Middle Ages, thereby determining the vector of formation of the then-styled international law of “civilized peoples”.

Section 3, “Epoch of Universal International Law”, considers the phenomenon of the origins of universalism as a principle of regulating international relations, to which there is no alternative in modern international law. In four subsection identified by precise periods of time the characteristic features are set out of each of the four periods of universal international law.

The commencement of the Westphalian configuration of universal international law (1648-1815) is launched by the signature on 24 October 1648 of the Osnabruk and Munster treaties of peace which have come down in history as the 1648 Peace of Westphalia. The authors analyze the Spanish-Dutch Peace Treaty of 1648, which brought the sovereignty of The Netherlands and became the precursor of the Westphalian Peace in the context of universal world order. The significance of the Peace of Westphalia is considered within the framework of international law in both its universal, and not merely, European context. The structure of the international legal order from the seventeenth to the early nineteenth century is examined.

In the subsection, “Period of Universal International Law under the Final Act of the Congress of Vienna”, from 1815 to 1919, the legal foundations of universal legal order of that time are considered, together with the development of international law in a period of “pentarchy”.

The subsection “Universal International Law of the Era of the League of Nations” (1919-1946) identifies the legal foundations of universal legal order and the international legal mechanisms for the regulation of international relations of that time. The development of international law under the conditions of the League of Nations is explored.

The concluding subsection, “Universal International Law in the Period of the United Nations” (from 1945 to the present) analyzes the prerequisites for the creation of the United Nations and the international legal foundations for the modern legal order. The principal orientations of the development of international law are set out.

A distinctive feature of the entire volume, as a consequence of the methodological approach suggested by Butler, is the presence in each subsection of Section 3 of a text concerning the state of the science of international law in a particular chronological expanse of time. The leading representatives of the science of international law in the seventeenth and eighteenth centuries are discussed (subsection 3.1.5); the state of the western science of international law in the nineteenth and early twentieth centuries, and distinctive features of the Russian science of international law and international legal thought in the universities of Ukraine during those years are analyzed separately in subsection 3.2.3 to 3.2.5. Not overlooked was the status of the western science of international law and the origins of the Soviet science of international law in the interval between the two World Wars, to which subsections 3.3.4 and 3.3.5 were devoted. Special attention is given to the development of the science of international law after 1945 in subsection 3.4.4.

The foregoing enables one to say that the collective international authorship of this history of international law has produced a volume of great topicality, innovation, and imagination. One hopes that the authors will seek the possibility to publish this innovative volume in English.