

## FELLOWSHIP FINAL REPORT

## Sociological and cultural history of international law (1815-1871)

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## REPORT INFO

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## ABSTRACT

While *International law* is first said to be a distinct profession with institutions and journals in the 1870's, this project has shown that from the Vienna Congress (1815) to the Franco-Prussian Wars (1870-1871), lawyers have initiated professional practices and shaped the making of *International Law*. They were involved in foreign offices, scientific academies, and universities, wrote textbooks and articles and created professional networks. This project investigates, for the first time, the interaction between foreign offices and international lawyers. This paper puts forward a prosopography of legal advisers employed in the French Ministry of Foreign Affairs and of the members of the Consultative Litigation Committee. Two peer-reviewed publications have been accepted and a conference proceeding is forthcoming.

## 1- Introduction

The focus of my research has evolved and the new title of the project is “International law in Foreign Affairs Ministries (1793-1871): socio-cultural history of international lawyers”. The purpose of this research is to study the history of international lawyers through the lens of their involvement in a variety of international Ministries of Foreign Affairs.

This study focuses primarily on the French case, as studies already exist for other countries, yet it will include Portugal, Spain, and Great-Britain, and compares the French case with other countries. The project puts forward a prosopography of juriconsults and publicists hired by the French Ministry of Foreign Affairs (FMFA) and of the members of the Consultative Committee of Litigation (CLC) of the FMFA. By combining the issues of diplomatic history, administrative history and the history of international law, this research is part of the historiographical renewal underway in these disciplines.

## 2- Experimental details

Main sources are archival documents (correspondence, memoirs, dispatches, laws, decrees...), primarily from the Archives of the FMFA (AMAE La Courneuve). I consulted several folders from the Collection Contentieux (AMAE 752/SUP), the main archive of the CLC. As of the date of publication, I have reviewed boxes 1, 9, 12, 24, 33, 80, 90, 91, 95, 111, 118, 119, 120, 124-125, 128, 128 bis, 131, 230, 257, 286. Boxes 118, 119 and 120 are very important regarding the foundation of the CLC and its members. I consulted many folders (dossiers personnels) on international lawyers employed by the Ministry in the collection 393QO (about 25 jurists) and 266QO (around 15). I consulted some important private Archives (Fonds Portalis 482 PAAP, Fonds Hauterive 472 PAAP, Fonds Pfeffel 738 PAAP), and documents from the Archives of the Archives (404 Inva) and from various collections of decrees and laws and on the organization of the ministry and its actors.

Additional sources include the Archives de l'Académie des sciences morales et politiques and the Archives Nationales (especially the fonds Laboulaye 796 AP). For other countries, I have consulted only the GStA in Berlin during the fellowship.

For secondary literature, I reviewed, among others, works published by Yves Bruley, Lisa Ford, Eloisa Mura, Ignacio de la Rasilla, Martti Koskeniemi, Philippe Rygiel and articles by Gabriela Frey and Kate Jones.

### 3- Results and discussion

Some results have already been published or are being published. For example, in an article on « The Consultative Litigation Committee of the French Ministry of Foreign Affairs: A Study in Constitutional and International Legal Entanglements », I have shown, contrary to a well anchored historiographic legend, that many legal advisers were employed in the FMFA during the nineteenth century. Furthermore, I have demonstrated that the CLC served as a laboratory of the making of international law. Its members were all active in academies, universities, courts, scientific journals and shaped both the doctrinal and practical construction of international law before its gradual disentanglement from the earlier comparative and constitutional matrix. I have also identified Lines of continuity between international lawyers and members of the Committee for the years 1830-1870 and their successors in 1880-1914.

The article titled “Laboulaye et Kachenovsky et la fabrique du droit international : voyages, réseaux, circulation des savoirs juridiques”, highlights the making of international law through new international networks which were shaped in the years 1840-1870. Indeed, through their involvement in legal journals, various associations and learned societies and their networks within the cosmopolitan jurist-internationalists, Laboulaye and Kachenovsky actively participated in the making of international law in the years 1840-1870. In the context of the institutionalization of international law in the years 1815-1870, these

journeys made it possible to bring together jurists from different countries and to disseminate manuals and works through legal journals and learned societies. I have also identified the geography of the travels of international lawyers, which largely corresponds to the precursor countries in the field of international law education, namely Italy, Spain, the Russian Empire, Germany, the Netherlands, Belgium and France. Paris (although other capitals played an important role) seems to have been a 'legal capital' for traveling international lawyers.

I am coediting the book on *Relations internationales et droit(s)/Law(s) and international relations*, which gathered 19 contributions from researchers including my introduction (with Sean Morris) and an article on “L'Académie des sciences morales et politiques et le droit international (1832-1914)”.

### 4- Conclusion

To conclude, my fourteen month at Le Studium has been very productive. I conducted highly relevant archival studies and published some preliminary results. I am now in the process of writing a book (my Habilitation) on *International Law at the Ministry of Foreign Affairs (1793-1939): Socio-history of internationalist jurists*. The book will be exclusively on the French Case. Yet the comparative perspective will be present in the introduction as well as in articles that have been published during my stay at Le Studium.

### 5- Perspectives of future collaborations with the host laboratory

We have several ongoing scientific projects with my host laboratory: First, the conference proceedings of the international conference "Law(s) and international relations: actors, institutions and comparative legislations", organized in Orléans in September 2021 and to be published by Editions Pedone in 2023. Second, I have helped Walter Badier and Pierre Allorant to organize the conference for the 20th anniversary of the CHPP (September 2022). Next, we are cooperating on a conference regarding Alexandre Ribot (January and March

2023) as well as on Etienne-Denis Pasquier (October 2023).

I have also just been invited to spend one month at the University of Orléans in September 2023.

## 6- Articles published in the framework of the fellowship

-R. Cahen, « Introduction : Les professeurs allemands en Belgique. Réflexions et pistes de recherche », dans R. Cahen, J. De Brouwer, F. Dhondt, M. Jottrand (dir.), *Les professeurs allemands en Belgique : circulation des savoirs juridiques et enseignement du droit (1817-1914)*, Bruxelles, ASP, 2022, p. 11-18.

-R. Cahen, « Le projet européen de Krause », dans O. Ferreira (dir.), *Krausisme juridique et politique en Europe*, Paris, Classique Garnier, 2021, p. 267-287.

-R. Cahen, « Friedrich Gentz and the Congress of Ljubljana », dans A. Rahten, G. Antolicic (dir.), *The Congress of Ljubljana 1821. Personalities, Events and Historical Context*, Klagenfurt, Hermagoras, 2021, p. 95-108.

-R. Cahen, « Laboulaye et Kachenovsky et la fabrique du droit international : voyages, réseaux, circulation des savoirs juridiques », *Clio@themis*, t.22 [Les juristes en voyageurs], <https://journals.openedition.org/cliothemis/2076>.

-R. Cahen, « The Consultative Litigation Committee of the French Ministry of Foreign Affairs: A Study in Constitutional and International Legal Entanglements », *Forum historiae iuris (fhi)*, to be published (28 November 2022).

-R. Cahen, P.S. Morris, « introduction », P. Allorant, W. Badier, R. Cahen & P.S. Morris (eds.), *Relations internationales et droit(s)/Law(s) and international relations*, Paris, Pedone, 2023, Forthcoming.

-R. Cahen, « L'Académie des sciences morales et politiques et le droit international (1832-1914) », in P. Allorant, W. Badier, R. Cahen & P.S. Morris (eds.), *Relations internationales et droit(s)/Law(s) and international relations*, Paris, Pedone, 2023, Forthcoming

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