

Elisabetta Fiocchi Malaspina

University of Milano

e-mail: elisabetta.fiocchi@hotmail.com

phone: +39 010 209 5507

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Teaching International Law during the Italian Unification: a New Discipline for a New State

SUMMARY

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Pasquale Stanislao Mancini and Augusto Pierantoni were not only two of the most important Italian internationalists of the 19th century but also the founders of Italian unity. Pasquale Stanislao Mancini laid the basis of the so called «Italian School of International Law», whose leading ideas were exposed in his inaugural Lecture at Turin University in 1851, *Della nazionalità come fondamento del diritto delle genti*. Mancini argued that nationality is the fundament of international law. The aim of this article is to investigate the birth of the new and independent discipline, international law, while looking into Italian unification.

Key words: Italian unification, history of international law, Italian school of international law, law of nations

Słowa kluczowe: zjednoczenie Włoch, historia prawa międzynarodowego, włoska szkoła prawa międzynarodowego, prawo narodów

1. Introduction

The nineteenth century was for excellence the century of international law. In the nineteenth century, in fact, international law assumed precise characteristics and a legal science began to appear, different from diplomacy and natural law. The protagonists of this development were international lawyers.

They lived during the period of radical change on the international panorama, which emerged in the late eighteenth century due to the American and French revolutions, the collapse of the Napoleonic empire and the events that led to the Congress of Vienna, in which the Holy Alliance had laid the basis for a new international order. This order had to be redesigned in the

mid-nineteenth century as a result of the Crimean war, at the end of which, with the Paris Treaty of 1856, Turkey benefited from European public law.

It was recently written that “International lawyers called to mediate between universalism and nationalism, humanitarian aspirations and colonial impulses, technical, economic and financial challenges, nations and states, recognized states as subjects of knowledge – with the regard to that they incorporated a deep supranational dimension into their general principles. International law became the product of a historical reflection by an elite of intellectuals that thought an organic relationship with the conscience of civilized nations, translated value into a scientific system”¹.

Some of the most important 19th century internationalists joined forces for the creation of the *Institut du droit international* which was founded in Ghent on 8th September 1873. The aim of the Institute was to promote the progress of international law, presenting itself as a legal conscience authority of the civilized world, to lay down general principles, to raise awareness of the theme and eventually to give its contribution to the gradual codification of international law².

Founders of the Institute of International Law, who met from 8th to 11th September 1873, in the “Salle de l’Arsenal” of Ghent Town Hall, were: Pascal Mancini (from Rome), Emile de Laveleye (from Liege), Tobie Michel Charles Asser (from Amsterdam), James Lorimer (from Edinburgh), Wladimir Besobrasoff (from Saint-Petersburg), Gustave Moynier (from Geneva), Jean Gaspar Bluntschli (from Heidelberg), Augusto Pierantoni (from Naples), Charles Calvo (from Buenos Aires), Gustave Rolin-Jaequemyns (from Ghent) and David Dudley Field (from New York).

The first President of the Institut was Pasquale Stanislao Mancini (1874). Followed in 1882 by his son-in-law Augusto Pierantoni³. Mancini and Pierantoni weren’t only international lawyers but also important Italian politicians and professors of international law, who actively participated in the Italian unification.

The aim of this article is to concentrate on Mancini and Pierantoni as two models of international law professors during the Italian unification and to underline the relationship between the birth of this new discipline and Italian political facts. Mancini and Pierantoni were sons of this historical period, they were personally involved in the Risorgimento and to the creation of a new state.

¹ L. Nuzzo, M. Vec, *The Birth of International Law as a Legal Discipline*, in *Construction International Law. The birth of a discipline*, L. Nuzzo, M. Vec (eds.), Klostermann, Frankfurt a.M. 2012, p. XII.

² L. Nuzzo, *Origini di una Scienza. Diritto internazionale e colonialismo nel XIX secolo*, Klostermann, Frankfurt a.M. 2012, p. 133.

³ A. Pierantoni, *La riforma del diritto delle genti e l’Istituto di diritto internazionale di Gand*, in *Prime linee di un codice internazionale*, D. Dudley Field, trad. it. A. Pierantoni, Marghieri, Napoli 1874, pp. 37–38 (1–45).

These were the years in which the spirit of the Risorgimento in Italy was felt at all levels. The Risorgimento, in fact, finds its roots not so much in patriotic insurrection and political reform, but in the legal claim of a law, where its subject wasn't the artificial person of the state, but the nature of the Nation⁴.

In this sense the real foundation of the Italian school of international law coincides with the establishment of the European first chair of international law and with the proclamation, made by Mancini of the principle of nationality⁵.

As Nuzzo well underlined the international law Italian doctrine was inevitably characterized by historical and political events leading to national unification. For this reason, international law in Italy was structured on two levels: the pedagogical one, based on the nation as a significant cultural system, well symbolized by Mazzini and his *Giovine Italia*, and the performatory one, interpreted as a disciplined form of government⁶.

Mancini developed in a juridical level the concept of nationality (in the sense of conscience of a population), but before Mancini some other jurists had placed at the center of their discussion the principle of nationality, just think about Pellegrino Rossi and about Gian Domenico Romagnosi.

The independence of nationality as a precondition for the establishment of an international order based on peace and for the recognition of a national legal personality had also inspired Ludovico Casanova, a lawyer and professor from Genoa⁷. While Mancini held his *Prelezione* in Turin, Casanova was professor of constitutional and international law in Genoa. A series of lessons from the years 1851–1855 have survived from his teaching. These lectures were re-ordered and prepared for printing in two distinct works on constitutional law and international law by his friend (lawyer, professor and politician) Cesare Cabella⁸.

The figure of Casanova was overshadowed by the growing reputation of Mancini, however, as pointed out by Storti, he gave a significant contribution to Italian international law doctrine: "the scientific weight and educational success of Ludovico Casanova were probably higher than has been recognized, both in the formulation of later theories of liberal constitutionalism and in the dissemination of European and American theories of international law, which were not known in Italy at that time"⁹.

⁴ A. Droetto, *Pasquale Stanislao Mancini e la scuola italiana di diritto internazionale del secolo XIX*, Giuffrè, Milano 1954, p. 2.

⁵ Ibidem.

⁶ L. Nuzzo, *Origini di una Scienza. Diritto internazionale e colonialismo nel XIX secolo*, p. 87.

⁷ Ivi, 92.

⁸ *Del diritto internazionale. Del diritto costituzionale. Lezioni del professore Ludovico Casanova ordinate dall'avvocato Cesare Cabella*, vol. I–II, Stabilimento Tipografico de Lodovico Lavagnino, Genova 1859–1860.

⁹ "Il peso scientifico e il successo didattico di Ludovico Casanova furono probabilmente superiori

2. Pasquale Stanislao Mancini and his family: education and Risorgimento spirit

The founder of the school of international law in Italy was Pasquale Stanislao Mancini. He graduated in Law in 1835 in Naples, started teaching law and at the same time he worked as a lawyer. He became a member of parliament in Naples, took part in the revolutionary movements of 1848 and had to flee into exile in Turin¹⁰. In 1840 he married Laura Beatrice Oliva, daughter of Domenico Simeone, painter, poet and also the tutor of Gioacchino Murat. Her father passed on his passion for poetry and Laura Beatrice was able to raise through the verses her love for a united Italy.

The poetess, in spite of her family commitments, wrote and published many verses for national independence and freedom, enhancing the Italian martyrs and appealing to women because they were fighting for the Italian national cause¹¹. With Mancini, Beatrice Oliva had eleven children, the first was Grazia, who followed in her mother's footsteps and in 1868 married Augusto Pierantoni¹².

At that time Mancini's house in Turin became the center of aggregation for intellectual and political exiles. The whole family participated with great

a quanto si sia di poi riconosciuto, sia nella formulazione delle successive teorie del costituzionalismo liberale, sia nella divulgazione delle teorie europee e statunitensi del diritto internazionale, ancora scarsamente note al suo tempo in Italia": C. Storti, *Empirismo scienza: il crocevia del diritto internazionale nella prima metà dell'Ottocento*, in *Construction International Law. The birth of a discipline*, p. 64 (51–146).

¹⁰ Pasquale Stanislao Mancini's archive is kept in Rome at the Istituto per la Storia del Risorgimento italiano. See. G. Mancini Pierantoni, *Una pagina di storia (1848–1849)*, "Nuova Antologia", (33) 1898, p. 276. See also C. Santangeli, *Le "carte Mancini" nell'Archivio Centrale dello Stato*, in *Pasquale Stanislao Mancini: l'uomo, lo studioso, il politico. Atti del convegno di Ariano Irpino 11–13 novembre 1988*, Guida, Napoli 1991, p. 199; E. Morelli, *Le carte Mancini*, "Rassegna storica del Risorgimento", XXVIII, 1941, pp. 100–103; Id., LXVIII, 1981, pp. 461–465; Id., LXX, 1983, pp. 321–326 and 464–469. As Jayme wrote: "Le carte lasciate da Mancini erano contenute in origine in cinquanta cosiddette "cassette" (604–653). La maggior parte del contenuto di queste "cassette" è attualmente sistemato in duecento contenitori ("buste"). La perfetta catalogazione delle carte, dopo un lavoro di quasi quattro decenni, è stata ormai completata. L'elenco generale fino ad ora compilato consiste di 189 pagine dattiloscritte": E. Jayme, *Pasquale Stanislao Mancini, il diritto internazionale privato tra Risorgimento e attività forense*, trad. it. A. Ruini, CEDAM, Padova 1988, p. 34.

¹¹ A. Berrino, *Dai fondi della Biblioteca della Società napoletana di storia patria. Scritti di donne pubblicati tra il 1840 e il 1915*, in *Scritture femminili e storia*, a cura di L. Guidi, Clupress, Napoli 2004, pp. 102–103. About the life and work of Laura Beatrice Oliva see: M. T. Mori, *Salotti: la sociabilità delle élite nell'Italia dell'Ottocento*, Carocci, Roma 2000, p. 198; E. Michel, *Mancini Oliva Laura Beatrice*, in *Dizionario del Risorgimento Nazionale. Dalle origini a Roma capitale. Fatti e persone*, III, Vallardi, Milano 1933, pp. 460–461.

¹² As for her father, the personal archive of Grazia is kept at the Archivio del Museo Centrale del Risorgimento of Rome, where it is possible her letters, references, are retained: MCRR/mancini/673–674.

fervor in the project for Italian unification and freedom for which Pasquale Mancini was the spokesman¹³.

Particularly Grazia participated, from her childhood onwards, in the political culture and the intellectual *milieu* of 19th century Italian circles, that supported and prepared the struggle for unity. The many links between literature, political ideas and political engagements within this environment deeply influenced her education and personal growth, forming her personality, ideas, and desires¹⁴.

Grazia tells about her adolescence in her *Impressioni e ricordi. Giornale di una giovinetta* diary written in the period 1856–1864 and published in *Nuova Antologia* in installments between February and August 1907 and later collected in a volume (Milan 1908) by the will of her son Riccardo¹⁵.

The diary reveals the life of exiles who met in Mancini's house almost every evening: men that assumed a primary role for Italian unification among others Giuseppe Pisanelli, Antonio Scialoja Terenzio Mamiani: "While men converse and make plans for the future and read letters sent by people who suffer, we women do crown them, because, as them, we feel the love of our Italian country highly"¹⁶.

In her work she wrote also about her father: Mancini was a loving father, caring husband, a good man, honest, incorruptible and willing to help anyone who knocked at his door with all his good will, even though this was sometimes risky: "In Turin my father is recognized by everyone as being in charge of the numerous tribes of the Neapolitan exiled refugees in the shadow of the Savoy flag. The secret of his popularity, even more than the powerful ingenuity and fame that he is already know for, has to be found in the immense goodness of his soul. He is a father, a brother to all: his wallet, his house, his table are there for everyone to use .. And many abuse him! But if someone says this to him, he denies it: for him, all of them are honest and deserved to be helped"¹⁷.

¹³ A. Berrino, *Dai fondi della Biblioteca della Società napoletana di storia patria*, pp. 104–105.

¹⁴ A. Russo, *Grazia Mancini*, in *Il Risorgimento invisibile. Presenze femminili nell'Ottocento meridionale*, a cura di L. Guidi, on line at: www.storia.unina.it/donne/invisi; O. Roux, *Infanzia e giovinezza di illustri italiani*, Bemporad e figlio, Firenze 1909, 339–360.

¹⁵ L. Guidi, *Mancini Pierantoni Grazia*, in *Dizionario biografico degli italiani*, 68, Istituto della Enciclopedia Italiana, Roma 2007, p. 511.

¹⁶ "Mentre gli uomini discorrono e fanno disegni per l'avvenire e leggono lettere venute di là dove si soffre e si spera, noi donne facciamo ad essi corona, perché, come loro, sentiamo altamente l'amor di patria": G. Mancini Pierantoni, *Impressioni e Ricordi (1856–1864)*, a cura di A. Santoro, L'Araba felice, Napoli 2005, p. 43.

¹⁷ "in Torino babbo è riconosciuto da tutti il capo della numerosa tribù degli esuli napoletani rifugiati all'ombra della bandiera sabauda. Il segreto della sua popolarità, più ancora che nell'ingegno potente e nella fama già acquistata, bisogna cercarla nella bontà immensa della sua anima. Egli è padre, fratello a tutti: la sua borsa, la sua casa, la sua mensa, tutto egli ha messo in comune

Mancini wasn't only an important lawyer but one of the most active men on the political sphere. He was on the left wing at Parliament with the election in April 1860 (VII legislature in the district of Sassari and for the next elections, from VIII to X still in the college of Sassari, from the XI to XIII in the district of Ariano Irpino and for the XIV and XVI in that of Avellino II). His political orientation did not imply any ideological rigidity or put him at odds with Cavour's right wing ideas: with Cavour, indeed, he collaborated in the legislative phase of Italian unification¹⁸.

As a lawyer and a professor of constitutional law, he wrote widely on Italian politics, presenting the national speech from a liberal perspective. About his academic career: In 1872 he was professor of international law at the La Sapienza, University of Rome. His Prolusione was very famous, and was held in the same year when he sustained that the principle of nationality was a principle of order and for this Europe would not have to fear further upheaval. The next step in this direction was the proposal addressed to the government because it was done to ensure that conflicts between states would be subject to international arbitration. Parliament voted unanimously on it¹⁹.

3. The first chair of International law: Pasquale Stanislao Mancini's *Prelezione* at the University of Turin (1851)

In Turin, Mancini became the first professor of international law: a special law of 14th Novembre 1850, established a chair of international private law and maritime law. In article 2 of the law it was written that in this course, maritime law especially would have to be coordinated with the history

con i compagni.. E molti ne abusano! Ma se qualcuno glielo fa osservare egli nega: per lui tutti sono onesti, meritevoli almeno di commiserazione...": G. Mancini Pierantoni, *Impressioni e Ricordi* (1856–1864), p. 39.

¹⁸ C. Storti Storch, Mancini Pasquale Stanislao, in *Dizionario biografico dei giuristi italiani (XII–XX secolo)*, II, Il Mulino, Bologna 2013, 1244–1248; Mancini Pasquale Stanislao, in *Dizionario biografico degli italiani*, 68, Istituto della Enciclopedia Italiana, Roma 2007, p. 520; F. Mele, *Un codice unico per un'Italia nuova. Il progetto di codice penale di Pasquale Stanislao Mancini*, Carocci, Roma 2002, p. 9; Y. Nishitani, *Mancini e l'autonomia della volontà nel diritto internazionale privato*, in *Rivista di diritto internazionale privato e processuale* 2001 (37), p. 23; S. Torre, *Mancini Pasquale Stanislao*, in *Juristen. Ein biographisches Lexikon von der Antike bis zum 20. Jahrhundert*, hrsg. M. Stolleis, C.H. Beck, München 1995, pp. 404–405; E. Jayme, *Pasquale Stanislao Mancini (1817–1888): l'attualità del suo pensiero*, Manfrini, Trento 1987; E. Morelli, *Pasquale Stanislao Mancini*, in *Tre profili. Benedetto XIV, Pasquale Stanislao Mancini, Pietro Roselli*, Edizioni dell'Ateneo, Roma 1955, p. 49; A. Droetto, *Pasquale Stanislao Mancini e la scuola italiana di diritto internazionale del secolo XIX*, p. 29; E. Michel, *Mancini Pasquale Stanislao*, in *Dizionario del Risorgimento Nazionale. Dalle origini a Roma capitale*, pp. 461–463; T. Sarti, *Il parlamento subalpino e nazionale. Profili e cenni biografici di tutti i deputati e senatori eletti e creati dal 1848 al 1890*, Speriani e Ferrero, Roma 1896, p. 610.

¹⁹ *Mancini Pasquale Stanislao*, in *Dizionario biografico degli italiani*, p. 520.

of Treaties, particularly those concerning Italy and the Savoy Monarchy. In the following article it was established that the course (then held by only one professor) would be divided in two years²⁰.

Mancini covered this role a month later. On 22nd January at Turin University, Mancini held his *Prelezione*, entitled *Della nazionalità come fondamento del diritto delle genti. Prelezione al corso di diritto internazionale e marittimo pronunciata nella Regia Università di Torino* (1851). This had a great influence above all in Europe and so much so that it was considered as political propaganda of the Risorgimento's legal doctrine²¹. However, it represented a significant stage for the construction of international law²².

In this *Prelezione* Mancini elaborated a new conception of international law that for him was based on the principle of nationality. According to Mancini, this principle is the foundation of the law of nations. Not the state, but the nation was at the center of an international law that included both public and private international law²³.

Mancini conceived the nation as a natural society of men whose premise is sharing the same territory, the same origin, the same traditions and the same language. "The complex of these elements, in fact, consists in the very nature of each population, and causes among the members of the national consortium, a particular intimacy both material and moral, and it creates a more intimate community of law, which is impossible to exist between individuals of different nations"²⁴.

²⁰ E. Jayme, *Introduzione*, in P. S. Mancini, *Della nazionalità come fondamento del diritto delle genti*, [ristampa edizione del 1851, Botta, Torino], Giappichelli, Torino 1994, p. 7. As well reconstructed by Claudia Storti, the need for the establishment of an international law chair it had already been raised in different contexts Italian: just think about the reform program of John Carmignani to Pisa University. This program was used in the reform of Legal Studies of the University of Turin, promulgated on 24th July 1846 and extended at the University of Genoa on 16th July 1847: C. Storti Storchì, *Ricerche sulla condizione giuridica dello straniero in Italia. Dal tardo diritto comune all'età unitaria. Aspetti civilistici*, Giuffrè, Milano 1989, p. 300.

²¹ G. S. Pene Vidari, *Un secolo e mezzo fa (22 gennaio 1851): la lezione torinese di Pasquale Stanislao Mancini sulla nazionalità*, in *Studi Piemontesi* 2002 (31), p. 274; C. Storti Storchì, *Ricerche sulla condizione giuridica dello straniero in Italia. Dal tardo diritto comune all'età unitaria*, p. 300; C. Campiglio, *La legge regolatrice della capacità delle persone fisiche. Dalle proposte di Pasquale Stanislao Mancini alla prassi convenzionale*, in *Le droit international à l'heure de sa codification. Études en l'honneur de R. Ago*, Giuffrè, Milano 1987, pp. 187–225.

²² G. S. Pene Vidari, *La prolusione di Pasquale Stanislao Mancini sul principio di nazionalità (Torino 1851)*, in *Retoriche dei giuristi e costruzione dell'identità nazionale*, a cura di G. Cazzetta, Il Mulino, Bologna 2013, p. 118.

²³ E. Jayme, *Introduzione*, p. 8.

²⁴ "Il complesso di codesti elementi compone, a dir vero, la propria natura di ciascun popolo per sé distinto, ed induce tra i membri del nazional consorzio cotal particolare intimità dei rapporti e materiale e morali, che per legittimo effetto ne viene ancora tra essi creata una più intima comunanza di diritto, impossibile ad esistere tra individui di nazioni diverse": P.S. Mancini, *Della nazionalità come fondamento del diritto delle genti*, pp. 37–38.

All of the elements, historical, cultural, natural, are developed and explained by Mancini, presenting them through an analytical discourse as the base substrate of every nation. However these elements aren't enough to create a nation, because they need to be supported by another element, which is essential and with a spiritual character: the awareness of belonging to an identical human aggregation who have a common destiny²⁵.

Mancini said about the national principle: "it is the consciousness of nationality, the feeling that buys itself which makes it able to form inside, and to show outside. Multiply how much you want the points of contact material, interior and exterior in groups of men: they do not form a nation without the moral unity of a common thought, a prevailing idea that forms a society. [...] It is therefore *I think and so exist* of philosophers, applied to nationality"²⁶.

From this observation it follows that on the international level the rights (of freedom) of every nation must be observed by the other nations, according to the same principles that relate to individuals, in order to recognize the free and harmonious co-existence of all nations²⁷.

Using Pene Vidari words: "Mancini's speech represents an important step for the individualization of juridical concept derived from national principle. They were greatly developed during the second half of the XIX century through arbitrations, bilateral treaties and the *Institut du droit international*. These principles still exist to this day, because for Mancini the fundamental values on which international society is based, are individualized in order to maintain world peace, and nationality (that is the principles of population's auto determination) and at the end to protect human rights"²⁸.

²⁵ Ivi, p. 43.

²⁶ "Signori esso è la coscienza della nazionalità, il sentimento che ella acquista di sé medesima e che la rende capace di costituirsi al di dentro e di manifestarsi al di fuori. Moltiplicate quanto volete i punti di contatto materiale ed esteriore in mezzo ad una aggregazione di uomini; questi non formeranno mai una nazione senza la unità morale di un pensiero comune, di una idea predominante che fa una società quel ch'essa è, perchè in essa viene realizzata. [...] Essa il Penso dunque esisto dei filosofi, applicato alla nazionalità. Finchè questa sorgente di vita e di forze non inonda e non compenetra della sua prodigiosa virtù la massa informe degli altri elementi, la loro multipla varietà manca di utilità, le attive potenze non hanno un centro di moto e si consumano in disordinati e sterili sforzi; esiste bensì un corpo inanimato, ma incapace ancora di funzionare come personalità nazionale e di sottostare ai rapporti morali e psicologici di ogni distinta organizzazione sociale": Ivi, pp. 43-44.

²⁷ G. S. Pene Vidari, *La prolusione di Pasquale Stanislao Mancini sul principio di nazionalità* (Torino 1851), p. 126.

²⁸ "Il discorso torinese del Mancini ha rappresentato una tappa importante per l'individuazione dei concetti giuridici derivanti dalla nazionalità e per la loro fissazione in ambito del diritto internazionale, sviluppatosi in modo considerevole nel corso della seconda metà dell'Ottocento tramite gli arbitrati, i trattati bilaterali, l' «Institut de droit international»: ancora oggi essi sono attuali, poichè «per Mancini i valori fondamentali di convivenza nella società internazionale sono da individuare nella tutela della pace, nelle nazionalità (ovvero principio di autodeterminazione dei popoli) e nella tutela dei diritti umani": Ivi, p. 134.

The Nationality is for Mancini the fundament of international law. As Tonolo shows this proposition, made for the law of nations, was susceptible of application also in the field of private international law. As a consequence of the assumption that the Nation, based upon a unity of culture and will, is the unique, legitimate foundation of any independent State, Mancini maintains that every national system of conflict of laws must respect the Law of nationality, as a tribute to the Nations' equal sovereignty, in the fields of civil law strictly connected with the national identity (personal condition, marriage, family relations, succession in movables and immovables) – that he defines as «necessary Law» not being subject to the parties' autonomy. In the fields where the parties' autonomy prevail (e.g. in contractual obligations), the few provisions of the choice of law could be instead accepted. In any case, the fundamental rules established in the interest of the Nation – State must prevail. The application of such rules, derived from general principles of equal dignity of national States, is to be made without any discrimination based on nationality. Citizens and foreigners must be treated on equal grounds, without any requirement of reciprocity²⁹.

However it is necessary to underline, in this sense, the important contribution of Mancini on the first Italian civil code (1865). It was during the work that led to the promulgation of the Civil Code that Mancini fought for the codification of equality between citizens and foreigners. In art. 3 of the Pisanelli code it was codified that foreigners enjoy all civil rights granted to citizens³⁰.

²⁹ S. Tonolo, *L'Italia e il resto del mondo nel pensiero di Pasquale Stanislao Mancini*, in *Cuadernos de Derecho Transnacional* (Octubre 2011), Vol. 3, N. 2, p. 180.

³⁰ "Tale norma assume così un significato storico sancendo l'abolizione di tutte le inferiorità che un tempo colpivano gli stranieri solo in quanto tali, ma non riguarda assolutamente la disciplina concreta dei diritti civili che gli stranieri possono esercitare in Italia; tale aspetto è poi rimesso alla determinazione della legge competente secondo le disposizioni successive, fortemente ispirate dalle idee di Mancini. E' infatti dal riconoscimento della perfetta uguaglianza tra gli Stati nelle loro relazioni reciproche che discende la necessità di riconoscere gli stessi diritti agli individui appartenenti alle diverse nazioni, applicando analoghe regole di diritto internazionale privato": Ivi, p. 181. To use Droetto's words: "Del diritto delle Nazioni il Risorgimento realizzò quella che si può chiamare l'idea individuale consistente nella capacità giuridica che si può chiamare l'idea individuale, consistente nella capacità giuridica che compete ad ogni popolo di erigersi a stato indipendente, una volta che ha acquistato, insieme con i requisiti esteriori, anche la coscienza interiore della propria nazionalità; ma la causa stessa di giustizia, per cui ciascuna nazione rivendicava, nel Risorgimento, il proprio diritto all'indipendenza e alla libertà, esigeva come termine per la propria definizione, nel pensiero di Mancini, l'idea sociale che del diritto stesso garantiva la fruizione dell'intera comunità delle Nazioni che si presentava come dominante dopo il 1870, quando risolta la questione delle unità nazionali, sorgeva quella dell'organizzazione internazionale." Esigenza che coinflui con la nascita dell'Istitut du droit international di cui Mancini fu, come si è detto, primo presidente: A. Droetto, *Pasquale Stanislao Mancini e la scuola italiana di diritto internazionale*, p. 3.

4. Augusto Pierantoni: an international law professor

Pierantoni met Pasquale Stanislao Mancini while he was employed in the Ministry of Education in Turin, after Unification. In a few years, he became Mancini's assistant in the legal profession, graduated in law from the Naples University and started his academic career. After having fought in Garibaldi's 'Spedizione dei Mille' in 1860, he obtained the chair of international and constitutional law at the Modena University in 1865³¹. In 1866 he took part as a soldier in the war against the Austrian Empire. In 1868 he married the first daughter of Mancini, Grazia³².

In 1870 Pierantoni became professor of constitutional law in Naples University and in 1878 succeeded Mancini as chair of international law at the University of Rome. In 1874, Pierantoni was elected to Parliament as a deputy of the Left wing for the constituency of Santa Maria Capua Vetere. He was re-elected in 1876 and again in 1880. On the 25th November 1883 he was named Senator and validated in December of the same year. He was one of the most assiduous participants of the parliamentary sessions; he was engaged in numerous special committees and commissions. It was written "no important issue was introduced to the examination assembly without his participation"³³.

Pierantoni distinguished himself for his political engagement, passion and the care he put into his activities both as deputy and later as senator. To quote him: "as soon as I began to exercise the arduous and delicate legislator's work,

³¹ Pierantoni's archive is kept at the *Istituto per la storia del Risorgimento italiano* in Rome, MCRR. B. 767–784; for the documents Pierantoni: E. Morelli, *Le carte Pierantoni*, in *Rassegna Storica del Risorgimento* 1954 (65), I, pp. 105–110. About life and work of Pierantoni see: L. Passero, *Pierantoni Augusto*, *Dizionario biografico dei giuristi italiani*, p. 1576; A. De Gubernatis, *Dictionnaire international des écrivains du jour*, pal-rig, quinzième livraison, Niccolai, Florence–Paris 1890, 1607–1608. And also: A. Malatesta, *Ministri, deputati e senatori dal 1848 al 1922*, serie XLIII, vol. II, B.C. Tosi, Roma 1941, p. 320; G. Perticone, *L'Italia contemporanea dal 1871 al 1948*, Mondadori, Milano 1962, p. 300; T. Sarti, *Il Parlamento subalpino e nazionale: profili e cenni di tutti i deputati e senatori eletti e creati dal 1848 al 1890*, pp. 763–764; Id., *Il parlamento nel cinquantenario dello Statuto: profili e cenni biografici di tutti i senatori e deputati*, Agostiniana, Roma 1898, pp. 433–434.

³² It's important to notice that after the marriage with Pieratoni, the whole life of Grazia is marked by the development, education and the importance of women's role in family life, politics and civil representation. All her writings, all her work are aimed towards this purpose. In the famous '*Rivista Europea*' in which Augusto Pierantoni and Pasquale Mancini also collaborated, Grazia published a section inside entitled *Rivista dell'istruzione femminile*. This section reported the women's victories in various fields (prizes, awards various degrees, the results in science and the arts, etc.). It had to be a stimulus to all women so that they would commit themselves to go out from exclusion and ignorance in which they were held by the domination of man power: L. Guidi, *Mancini Pierantoni Grazia*, p. 511.

³³ A. Pierantoni, *La giustizia internazionale e le leggi della guerra* (1899). *Il manifesto della seconda conferenza dell'Aia*, Manunzio, Roma 1907, p. vi.

I became a supporter of those international reforms founding an alive echo in the nation's heart, and I tenaciously lent tribute to the principles professed by people's legal conscience"³⁴.

Among the many proposals the one he discussed on 30th May 1876 is the most important:

Pierantoni wanted the military Penal code to be coordinated both with the rules contained in the Geneva Convention of 1864 and with the others of the Brussels' Conference of 1874, regarding the treatment of prisoners of war's, because "science and the civil world would be glad of the humanity work that I recommended and [...] our country would acquire the general gratitude"³⁵.

The Chamber of Deputies unanimously approved this proposal and the Italian military code was conformed to international laws.

About his academic career it is necessary to precise that during his teaching at Modena University he wrote two important books that had to be used by his students: the first book was published in Modena in 1866, entitled *Il progresso del diritto pubblico e delle genti*, it's divided in two parts: in the first part he studied the scientific value of the principle of nationality looking at its political perspective; in the second part he investigated India, reconstructing its history and its role in international relations³⁶.

The second book written in Modena is about the reconstruction of the history of the law of nations in Italy. This work was published in 1869 and entitled *Storia degli Studi del diritto internazionale in Italia*.

This book is an important source for the reconstruction of international law as a discipline and for achieving a complete overview on this. Pierantoni was a professor of international law and he wrote for his students.

Referring to Italian sentiment, in his preface he wrote: "We Italians had lost the consciousness of ourselves, and if at this moment as a Nation we recovered the ancestral place in the consortium of nations and ensured a degree of political power, we still have the serious task to link this political unity to the other civil unity of national wisdom [...] The purchase of independence

³⁴ "non appena presi ad esercitare l'ufficio arduo e delicato di legislatore, mi appalesai propugnatore di quelle riforme internazionali, che trovavano un'eco vivissima nel cuore della nazione, e tenacemente prestai omaggio ai principi, che la coscienza giuridica de' popoli professa": Ivi, p. vii.

³⁵ "la scienza e il mondo civile si allieterebbero dell'opera di umanità da me raccomandata e [...] la patria nostra acquisterebbe nuovi titoli alla riconoscenza generale": Ivi, p. vii.

³⁶ This book also received the admiration of Giuseppe Garibaldi, who wrote in April 1867 this letter to Pierantoni: "Grazie per l'opera vostra bellissima che ho cominciato a leggere con tanto interesse. A voi milite dell'intelligenza e del braccio tocca il propugnare i diritti dell'umanità di emancipare l'Italia dall'impostura pretina che la travaglia": *Augusto Pierantoni nell'anno XL dell'insegnamento universitario. Omaggio di amici e ammiratori*. XX maggio 1906, Tipografia Manuzio, Roma 1906, p. 9.

should not be looked on as the top aim and the goal of our political renewal, but as the means to emancipate the native mind from all the foreign powers into all types of human activities"³⁷.

In this book Pierantoni showed the steps in the history of the law of nations in Italy, identifying five epochs: the first epoch coincided with the exposition of the theories contained in the works of Pierino Belli and Alberico Gentili, through the reconstruction of the historical-political situation of the Italian peninsula. In the second period, after an initial introduction on European natural law theories, Pierantoni took the positions of Zouch, Pufendorf and Wolff into consideration, and great space is devoted to the so-called revival of the Italian Studies (on the law of nations) in the eighteenth century. Pierantoni illustrated Galiani's work, entitled *Dei doveri e dei diritti dei principi neutrali verso i guerreggianti*, and Lampredi's *Del commercio dei popoli neutrali in tempo di guerra*, emphasizing their merits. Concluding this era, Domenico Antonio Azuni and his *Sistema universale dei principi del diritto marittimo in Italia*, was a fundamental work for the history of Italian maritime law.

In the third epoch Pierantoni dealt with precise and critical observations on the subject of Italian international law in the first half of the nineteenth century, alternating precise historical events, like the fall of Napoleon, the Congress of Vienna, with the positions of Pellegrino Rossi and Gian Domenico Romagnosi. The fourth epoch is centered on the figure of his father-in-law Mancini and the establishment of the first chair of International Law in Turin; however he dedicated some pages to the thoughts and works of Terenzio Mamiani and Ludovico Casanova. Finally, in the fifth and last age, he wrote about the internationalists of the second half of the nineteenth century among which we find Pasquale Fiore and Carnazza Amari³⁸.

³⁷ "noi italiani avevamo smarrita la coscienza di noi medesimi, e se ora come nazione abbiamo recuperato l'avito posto nel consorzio delle genti ed assicurato un grado di potenza politica, abbiamo tuttora il grave compito di accoppiare a questa unità politica l'altra civile della sapienza nazionale [...] L'acquisto della patria indipendenza non deve essere guardato come il fine massimo e la meta del nostro politico rinnovamento, ma come il mezzo connaturale e proprio di emancipare l'ingegno natio dalla soprastante potenza straniera in ogni ordine di umana attività: A. Pierantoni, *Storia degli studi del diritto internazionale in Italia*, Modena 1869, Introduzione, pp. iii-iv.

³⁸ Between 1870 and 1910 he wrote also other important works, among these: *La chiesa cattolica nel diritto comune* (Firenze 1870); *Gli arbitrati internazionali* (Napoli, 1872), *Storia del diritto internazionale nel secolo XIX* (Napoli 1876), *Trattato di diritto internazionale* (Napoli 1881); *I trattati internazionali e lo statuto italiano* (Napoli 1907).

5. Conclusion: Mancini founder of Italian colonialism and Pierantoni founder of the Diplomatic-Colonial School (Rome 1901)

Mancini and Pierantoni are two examples of international law's professors in the Italy of the 19th century. This discipline, formally born with the creation of the chair of international law in Turin in 1851, was strongly permeated by Italian national unification.

For both, the importance of educational instruction at all levels was the symbol of national identity and they dedicated, particularly Pierantoni, all of their life to political and university careers.

However, both also played an important role during Italian colonialism. Some brief observations can help to reconstruct another aspects of them.

As it is well know Mancini, when he was Minister of Foreign Affairs, made a significant contribution to Italian colonial expansion³⁹. According to Tullio Scovazzi, Mancini is the one who worked at an abstract level on the theory of Italian colonialism⁴⁰.

In parliamentary reports the Minister justifies African expansionism with the need to keep up with all other major European powers: indeed Mancini was to formalize in Parliament the Italian's acquisition of the bay of Assab in 1882⁴¹.

Pierantoni worked a lot for the creation of a diplomatic corps that would have worked in the colonies and he took care of the problem of Italian emigration towards the colonies, elaborating many ideas and Parliamentary proposals. Among these it is necessary to remember the foundation in Rome of the Diplomatic-Colonial School. In May and June of 1901 the minister of Education Nunzio Nasi⁴², supported by Pierantoni, pointed out his intentions indicating the creation of special schools for emigration, where tropical medicine, colonial legislation, medical and commercial geography and naval hygiene, could be taught in some Italian universities⁴³.

The Minister Nasi and Pierantoni submitted to the Board of education their detailed program previewing the institution of new chairs and schools, and a plan for transforming the Administrative Economic School annexed to

³⁹ N. Papa, *L'Africa Italiana. I giudici, le leggi, le pene e la questione della razza*, Aracne, Roma 2009, p. 30. See also: L. Nuzzo, *Origini di una Scienza. Diritto internazionale e colonialismo nel XIX secolo*, p. 129.

⁴⁰ T. Scovazzi, *Assab, Massaua, Ucciali, Adua, Gli strumenti giuridici del primo colonialismo italiano*, Giappichelli, Torino 1998, p. 73: «colui che elaborò, sul piano astratto, la teoria italiana del colonialismo».

⁴¹ N. Papa, *L'Africa Italiana. I giudici, le leggi*, pp. 30–31.

⁴² G. Monina, *Il consenso coloniale. Le società geografiche e l'istituto coloniale italiano*, Carocci, Roma 2005, p. 59.

⁴³ Ibidem.

the legal faculty of Rome into a Diplomatic-Colonial School. The founder and first director of this Diplomatic-Colonial School was Pierantoni⁴⁴.

The Royal decree of 5th December 1901 sanctioned the birth of the Diplomatic-Colonial School with the purpose of preparing post graduate students for diplomatic careers in the Ministry of Foreign Affairs and, in general terms to promote the spread of Italian scientific knowledge towards emigration and peaceful expansion abroad⁴⁵.

Pierantoni's archive, kept at the *Istituto per la storia del Risorgimento italiano* in Rome, contains all of the unpublished documents about the new school. The two-year course provided the instructions of colonies emigration policy, political and colonial geography, diplomatic law, compared trade policy and customs legislations. Pierantoni taught history and the law of treaties⁴⁶.

This new institution however was not accepted with favour by the colonialists who noticed "an ancient reminiscence of the Italian scholastic legislation". Four years later on 24th November 1905, the school was closed and replaced with the Graduate Institute of commercial and colonial studies, but this is another story.

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⁴⁴ Ivi, p. 91.

⁴⁵ Pierantoni's archive, *Istituto per la storia del Risorgimento italiano* in Rome, MCRR. B. 772 n. 15.

⁴⁶ Ivi. See also: A. Pierantoni, *Origini e fini della scuola diplomatico coloniale. Discorso inaugurale pronunciato dal prof. Augusto Pierantoni, senatore del Regno il 7 aprile 1902*, Cecchini, Roma 1902.

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