Louis Renault: legitimizing international law in France

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This bookseller's son, born in 1843, went to law school in Paris and graduated in 1861. Professor of Roman law and commercial law at the University of Dijon (the latter field also being that of his colleague Charles Lyon-Caen, also born in 1843, with whom he co-authored a book), he replaced Charles Giraud for the course on the law of Nations at the Faculty of Paris, before succeeding him in 1888. He also taught at the new *École libre des sciences politiques*, which was a breeding ground for French internationalists. A jurisconsult at the Ministry of Foreign affairs on the Quai d'Orsay since 1890, the representative of France at the Hague peace conferences of 1899 and 1907, member of the Institute of International Law since 1882, his aura grew with the war of 1914-

1918.

Louis Renault can be considered one of the founders of international law – whose institutional and academic modernization emerged around 1880 – in French academia. He would have liked to see the law of Nations cover the practical field of this discipline, the theoretical field being devolved to public international law. Charles Dejace, his colleague from the University of Liège, conceded, based on Renault's first work published in 1879, that "n'existe pas de tribunal supérieur aux États et compétent pour juger les [constatations] internationales [there is no court superior to the nations that is competent to judge international [findings]]". It is useful to note that the jurist, defender of this field, injected legitimacy through the "recent methods of the historical school". According to Dejace, this form of international law has always existed, in a non-codified form. In his lectures, the professor returned to the theories of Grotius, Wolff, de Vattel, Thomas Hobbes, citing as an example the *Précis du droit des gens moderne de l'Europe fondé sur les traités et l'usage* (1788) of Professor de Göttingen George de Martens (1756-1821), the *Droit international théorique et pratique* (1881-1884) of Argentinian Carlos Calvo (1822-1906) and considers the creation of the *Revue de droit international et de législation comparée* in 1869 to be the last result of the discipline.

It was not until the 1880s that the first *autonomous* and renovated chairs of the law of Nations/international law were erected in law schools. In 1874, Belgian lawyer Gustave Rolin-Jaequemyns underlined how much he had to demonstrate the practical interest of such a discipline for a neutral country, where young doctors of law seemed resistant to this field:

"Je voudrais parler de l'étude du droit international dans ses rapports avec les exigences pratiques de la situation actuelle […]. J'ai réellement un grand désir de donner cette conférence, en vue de laquelle j'ai refusé toutes les autres demandes. Mon but serait de conquérir, parmi ce monde intelligent du jeune barreau, quelques recrues à l'étude sérieuse, approfondie, de donner quelques coups de patte en passant aux jurisconsultes amateurs, et de démontrer l'intérêt spécial du droit international pour les pays neutres, et en particulier pour la Belgique, la Hollande et la Suisse. [I would like to speak of the study of international law in its relationship with the practical requirements of the current situation. I have a great desire to give this lecture, for which I have refused all other requests. My aim would be to win over, among this intelligent world of the young bar, a few recruits to serious, in-depth study, to give a few pats on

the back to amateur jurists, and to demonstrate the special interest of international law for neutral countries, and in particular for Belgium, Holland and Switzerland.]"

Europe did need a first registry of chairs of international law. A letter dated 1878 from Gustave Rolin-Jaequemyns to Alphonse Rivier attests to this:

"Pour l'enseignement du droit international, je compte sur vous pour l'Allemagne et la Belgique. Clunet m'avait promis la France, mais ne m'a rien envoyé. Il prétend que c'est très-difficile !? Votre ami Gide ne vous éclairerait-il pas ? Pour l'Espagne et le Portugal, la Grèce et les États-Unis, Landa, Sanpolos et Field sont en défaut. Le mieux sera de nous contenter de ce que nous avons. [For the teaching of international law, I count on you for Germany and Belgium. Clunet had promised me France, but sent me nothing. He claims it's very difficult!? Could your friend Gide not enlighten you? For Spain and Portugal, Greece and the United States, Landa, Sanpolos and Field refused us. The best thing will be to be content with what we have.]"

We fully subscribe to what Guillaume Sacriste and Antoine Vauchez put forward in a perspicacious article:

"On the eve of the First World War, the diplomacy of the great powers gave only a marginal place to international law. From the 1890s onwards, the Ministries of Foreign Affairs sought legal expertise, whether it was the position of permanent jurisconsult held in France until the war by the law professor Louis Renault, or specialized structures such as the Diplomatic Litigation Council in Italy. But the international jurists who held these positions were usually confined to the work of technicians in international negotiations."

The session of the Institute of International Law (IDI), in 1910, was held in the French capital, as specified above, a few days after the decline of the famous floods of January-February. Why Paris? It seems that some jurists, and in particular Albéric Rolin, saw in the atmosphere of this "beacon of light", a *humus* favorable to reflection and decisive advances that The Hague has not allowed. There was certainly some irrationality in this justification, but it was not without interest, insofar as France, until the 1890s, acted as a secondary member of the IDI if not as a disruptor. However, in 1910, France found its letters of nobility in Albéric Rolin and in his vibrant voice of a francophilia that his brother Gustave certainly did not share, but which he passed on to his son Henri. We must see, in our opinion, a qualitative leap in the image of France in

the internationalist milieu, more particularly in Belgium. This seemed to have been in progress since the mid-1890s, and more precisely, 1894, which marked the creation of the *Revue générale de droit international public* and the presidency by Louis Renault of the first session of the IDI held in Paris. In 1910, Albéric Rolin did not lack emphasis in this “declaration”, which should be read in the light of the recent floods in Paris in January:

“C’est bien souvent de Paris qu’ont jailli ces grands courants de sympathie universelle, d’altruisme international, d’amour de l’humanité qui ont fait tressaillir le monde. Aussi, lorsqu’un désastre frappe cette ville lumière, a-t-il son retentissement dans l’univers entier. Vous en avez la preuve éclatante à l’occasion d’événements trop récents. Et ces événements, malgré tout ce qu’ils ont de navrant, ont mis en relief *deux choses* : d’abord tout ce qu’il y a de résignation stoïque, de merveilleuse élasticité, de dévouement généreux dans cette population parisienne souvent accusée de frivolité, ensuite le développement merveilleux de cette grande idée de la solidarité humaine qui ne connaît pas de frontières. Plus encore que les Congrès, plus que les Instituts de droit international, ces désastres ont été la manifestation éloquente du progrès de cette grande idée. C’est à Paris en outre, à Paris plus que partout ailleurs, que se sont levés à diverses époques, ces grands semeurs d’idées nouvelles […]. Aussi ne faut-il pas s’étonner que, parmi nos sessions les plus fructueuses, brille au premier rang la session de 1894, tenue sous la présidence de notre illustre collègue, M. Renault. Faut-il rappeler le bilan de cette session ? C’est alors qu’a été voté l’article 1er du règlement rédigé par M. Lehr […] Il est impossible de rêver une moisson plus abondante et plus riche. Tout cela est sans doute d’un heureux présage pour la présente session […]. [It is very often from Paris that these great currents of universal sympathy, of international altruism, of love of humanity have sprung which have made the world tremble. So when disaster strikes this city of light, it has its resonance throughout the universe. The vivid proof of this was shown to the world too recently. And these events, in spite of all that they have of pitiful, have highlighted *two things*: first, all that there is of stoic resignation, of marvelous elasticity, of generous dedication in this Parisian population often accused of frivolity; secondly, the marvelous development of this great idea of human solidarity which knows no borders. Even more than the Congresses, more than the Institutes of International Law, these disasters have been the eloquent manifestation of the progress of this great idea. It is in Paris, moreover, in Paris more than anywhere else, that these great sowers of new ideas have risen at various times. It is therefore not surprising that,

among our most fruitful sessions, the session of 1894, held under the chairmanship of our illustrious colleague, Mr Renault, shines in the first place. Should we recall the results of this session? It was then that we voted the first amendment of the Rules of Procedure drafted by Mr Lehr […] It is impossible to dream of a more abundant and richer harvest. This is probably a good omen for this session […].]"

Belgian economist and jurist Ernest Mahaim did not hesitate to adopt in 1913 the general conception of the situation on international law advocated by his French colleague:

"En résumé, on peut dire, avec L. Renault, que « la vie juridique internationale est née en 1899. On a beau s'en moquer, on a beau la critiquer, dans tous les sens, on ne saurait contester son existence. Il y a là une tentative sans précédent pour soumettre les rapports internationaux à l'empire du droit. [In summary, one can say, along with L. Renault, that 'international legal life was born in 1899. No matter how much one laughs at it, no matter how much one criticizes it, in every sense, one cannot dispute its existence. This is an unprecedented attempt to subject international relations to the rule of law.' Let us add that, despite the apprehensions that the current situation gives rise to, and *whatever* happens, this *life* can no longer stop.]"

It is true that the Hague Peace Conferences of 1899 and 1907 contributed to the international notoriety of Louis Renault. He had already participated in an important expertise, within the case of the Delagoa Bay (Maputo Bay today), which significantly divided the British and their Portuguese neighbors, colonizers of present-day Mozambique. The dispute stemmed from the seizure by the Portuguese of the railway linking the bay to the Transvaal Republic, a Boer state annexed by the British in 1877 and again independent from 1884 to 1900, before being occupied again. This issue was settled in 1900 in arbitration and fined the Lusitanians. This question mobilized the expertise of French jurists: Louis Renault, Charles Lyon-Caen, *Arbitral Tribunal of Delagoa sitting in Bern. Concerning the case of the Lourenço-Marques railway (Delagoa Bay). Deliberate consultation at the request of the plaintiffs*, Paris, F. Pichon, 1895.

At the Hague conferences, Renault met Léon Bourgeois, a defender of legal pacifism (or juripacism) who believed that "good international law" was the *sine qua non* condition of solidarity. He represented France, in 1899 and 1907, alongside Renault

and Estournelles de Constant, at both conferences, where he defended the existence of a permanent commission of international arbitration. Another jurist to appear among the French delegates in The Hague was Charles Lyon-Caen (1843-1935), a professor of civil law and then Roman and commercial law at the University of Paris since 1878. A member of the IDI, he presided over it in 1910 and 1934. Director of the *Revue critique de législation et de jurisprudence* from 1888 to 1914, he is considered one of the fathers of French commercial law, by the publication, alongside Louis Renault, in 1879-1885, of the two volumes of the *Précis de droit commercial*, the first sum to exceed the sterile exegesis of the Commercial Code. He had a strong taste for international law, but in a more marginal way.

Louis Renault particularly took position during the First World War and was particularly sensitive to the publication in 1915 of a disputed and questionable book by Fritz Norden, *La Belgique neutre et l'Allemagne d'après les hommes d'Etat et les juristes belges*, a real pro-German plea. Belgian jurists Jules Van den Heuvel, Charles de Visscher and Jean Dabin reacted to this text, like Louis Renault, in 1917. The latter, whose authority on international law had been established for several years, did not seem to know Norden and had taken his information from a recent work by the German Josef Kohler. The latter argued that Norden was Belgian, while Renault believed that he was rather German, unable to conceive such a "betrayal". He refused the refutation of inviolability brandished by Kohler, Norden and others, arming himself with legal arguments, but also with "common sense", that can be found in the work of several jurists who can be described as pragmatics (Henri Rolin, Charles de Visscher). Louis Renault contradicted the writings of many German jurists, not without regreting, like his Belgian colleague Charles de Visscher, the obedience of scientists to the national government. The loss of independence of mind and apolitism, so dear to the Institute of International Law, seemed to hurt Renault. The Frenchman mentioned the works published by Van den Heuvel, but also Brussels sociologist Emile Waxweiler, who had died in 1916, friend and emissary of King Albert, and whose impact abroad was resounding, especially with regard to the dissemination of atrocities committed in Belgium.

Analyzing Renault's book word by word would drive us away from the matter at hand, but it should be pointed out that, according to him, Germany started the conflict with an "indisputable initial crime". This appellation, very specific to the First World War, helps

place it in the context of the legalization of international relations. It defeats the theory (defended by American jurist John W. Burgess) that Germany, having changed regime between 1839 and 1914, would not have renewed the recognition of Belgian neutrality. On that matter, Renault reminds however that on August 9 and 10, 1870, Berlin, under pressure from London, guaranteed neutrality, without breaking the Treaty of 1839. Moreover, he argued, with some originality, that, in the ultimatum of August 2, 1914, Germany suggested to Belgium to make itself "complicit" in an aggression against France, by abandoning its sovereignty. We could summarize the spirit of his book by the witty line that Renault borrowed from Swiss poet Carl Spitteler, one of the few Alemannic authors to condemn the attitude of Germany: "Après coup, pour apparaître plus blanc, Caïn a noirci Abel. Or, c'était largement suffisant de l'avoir égorgé. Le diffamer ensuite, c'est trop. [After the fact, to appear whiter, Cain blackened Abel. It was enough to kill him. Slandering him goes too far.]"

Now in his seventies, Louis Renault, who had trained jurists such as Jean Paulin Niboyet or Jules Basdevant, served as *primus inter pares*, but also as a pioneer of the academic discipline that was international law in France. Together with Ferdinand Larnaude, he founded the Committee for the Defense of International Law. Born in 1853, bachelor in law, lawyer at the Court of Appeal, professor in Bordeaux and then in Paris, the latter belonged to the radical trend. Taking, as early as September 30, 1914, the position of the teacher militant in favor of the "legal war", in the name of "immortal France", Larnaude joined the Committee chaired by Louis Renault at the same time as he chaired the National Action Committee for the full reparation of the damage caused by the war.

During these war years, Louis Renault occupied the strategic position of jurisconsult at the Quai d'Orsay, until his death in 1918. As such, we can understand his conception of his function better through the lens of an event that took place in 1927, namely the resignation of his successor Albert Geouffre de La Pradelle. He took this decision following the disapproval of Aristide Briand, Minister of Foreign Affairs, in the face of a private consultation with the jurist. He opposed him on this occasion to Louis Renault, who was able to reconcile the service of the State and the law. La Pradelle saw this only as a criticism of his desire to escape political "submission".

As for Louis Renault, he retained the image of a founder, a disciplinary emancipator and an actor and witness, at the end of his life, of the decisive activation of international law

during the world conflict which gave it unprecedented importance.

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