

Natural Law and the Law of Nations in Eighteenth- and Nineteenth-Century
Italy

Early Modern Natural Law

STUDIES AND SOURCES

Series Editors

Frank Grunert (*Martin-Luther-Universität Halle-Wittenberg*)
Knud Haakonssen (*University of St Andrews and University of Copenhagen*)
Louis Pahlow (*Johann Wolfgang Goethe-Universität*)

Board of Advisors

Maria Rosa Antognazza[†] (*King's College London*)
John Cairns (*University of Edinburgh*)
Thomas Duve (*Max-Planck-Institute for Legal History and Theory,
Frankfurt am Main*)
Ian Hunter (*University of Queensland*)
Diethelm Klippel[†] (*Universität Bayreuth*)
Martin Mulsow (*Universität Erfurt*)
Barbara Stollberg-Rilinger (*Westfälische Wilhelms-Universität Münster and
Wissenschaftskolleg zu Berlin*)
Simone Zurbuchen (*Université de Lausanne*)

VOLUME 6

The titles published in this series are listed at brill.com/emnl

Natural Law and the Law of Nations in Eighteenth- and Nineteenth-Century Italy

Edited by

Elisabetta Fiocchi Malaspina
Gabriella Silvestrini



BRILL

LEIDEN | BOSTON



This is an open access title distributed under the terms of the CC BY-NC-ND 4.0 license, which permits any non-commercial use, distribution, and reproduction in any medium, provided no alterations are made and the original author(s) and source are credited. Further information and the complete license text can be found at <https://creativecommons.org/licenses/by-nc-nd/4.0/>

The terms of the CC license apply only to the original material. The use of material from other sources (indicated by a reference) such as diagrams, illustrations, photos and text samples may require further permission from the respective copyright holder.

The open access publication of this book has been realised with the support of the Swiss National Science Foundation.

Cover illustration: *A New Map of Italy* (1708), John Senex. Washington State University Libraries' Manuscripts, Archives, and Special Collections (MASC). Public Domain.

Names: Fiocchi Malaspina, Elisabetta, editor. | Silvestrini, Gabriella, 1961- editor.

Title: Natural law and the law of nations in Eighteenth- and Nineteenth-Century Italy / edited by Elisabetta Fiocchi Malaspina, Gabriella Silvestrini.

Description: Leiden ; Boston : Brill/Nijhoff, 2024. | Series: Early modern natural law : studies & sources, 2589-5982 ; volume 6 | Includes bibliographical references and index.

Identifiers: LCCN 2023039723 (print) | LCCN 2023039724 (ebook) | ISBN 9789004685123 (hardback) | ISBN 9789004685130 (ebook)

Subjects: LCSH: Natural law--History--18th century. | Natural law--History--19th century. | International law--Italy--History--18th century. | International law--Italy--History--19th century.

Classification: LCC K417.18 N38 2024 (print) | LCC K417.18 (ebook) | DDC 340/.112094509033--dc23/eng/20230929

LC record available at <https://lccn.loc.gov/2023039723>

LC ebook record available at <https://lccn.loc.gov/2023039724>

Typeface for the Latin, Greek, and Cyrillic scripts: "Brill". See and download: brill.com/brill-typeface.

ISSN 2589-5982

ISBN 978-90-04-68512-3 (hardback)

ISBN 978-90-04-68513-0 (e-book)

DOI 10.1163/9789004685130

Copyright 2024 by Elisabetta Fiocchi Malaspina and Gabriella Silvestrini. Published by Koninklijke Brill NV, Leiden, The Netherlands.

Koninklijke Brill NV incorporates the imprints Brill, Brill Nijhoff, Brill Schöningh, Brill Fink, Brill mentis, Brill Wageningen Academic, Vandenhoeck & Ruprecht, Böhlau and V&R unipress.

Koninklijke Brill NV reserves the right to protect this publication against unauthorized use.

This book is printed on acid-free paper and produced in a sustainable manner.

Contents

Acknowledgements VII
Notes on Contributors VIII

Introduction 1

Elisabetta Fiocchi Malaspina and Gabriella Silvestrini

PART 1

Between Civil Law and the Law of Nature and Nations

- 1 Natural Law at the University of Pisa: From the *Ius civile* Teachings to the Establishment of the First Chair of *Ius publicum* in 1726 17
Emanuele Salerno
- 2 Reception and Reinterpretation: Natural Law and the Law of Nations at the Roman 'Sapienza' in the Eighteenth Century 50
Alberto Clerici
- 3 The Teaching of Natural Law and Universal Public Law at the University of Pavia in the Late Eighteenth Century 79
Elisabetta Fiocchi Malaspina
- 4 The Law of Nature and Nations in the Mirror of the Academy of Fists: Reforms, Philosophy, Law and Economy 101
Gabriella Silvestrini

PART 2

Recoveries and Criticisms of Natural Law

- 5 Natural Ethics and History: Antonio Genovesi and Mario Pagano 137
Girolamo Imbruglia
- 6 Pufendorf and Hutcheson in the Alps: Variations on Natural Law in Eighteenth-Century Italy 161
Serena Luzzi

- 7 The Transformation of Eighteenth-Century *Jus gentium* into
Nineteenth-Century Law of Nations: An Italian Debate 189
Antonio Trampus

PART 3

From Natural Law and the Law of Nations to International Law

- 8 The Political Science of Natural Law: The Case of Perugia 207
Vittor Ivo Comparato
- 9 The Chair of International Law and Pasquale Stanislao Mancini's
Lectures in Turin 231
Frédéric Ieva
- 10 The Law of International Love: Luigi Taparelli d'Azeglio on Catholic
Natural Law and the Law of Nations 257
Francesca Iurlaro
- 11 The Teaching of International Law in Cagliari, the 'Italian School' and
the Unification of Italy 285
Giuseppina De Giudici
- Index of Persons 313
Index of Places 320
Index of Subjects 322

Acknowledgements

The following volume is the result of a series of seminars held at the University of Eastern Piedmont (Vercelli, Italy) between 2017 and 2019 in collaboration with the University of Zurich, which brought together a group of Italian scholars as part of the international research programme 'Natural Law 1625–1850: An International Project' (coordinated by Frank Grunert, Knud Haakonssen and Louis Pahlow). Merio Scattola joined the project, contributing Italian perspectives on its work, until his premature and unexpected death in 2015. With our seminars and the present volume, we are honoured to continue his legacy.

The multiplicity of modern variants of natural law has merged into the numerous research itineraries contained in the chapters of this book. These essays, in addition to providing various themes and perspectives for future scientific research, are the result of the collective effort made by all the colleagues who enthusiastically joined the project: we would like to thank them most warmly, not least for their attention and patience, especially during the period marked by the Covid-19 pandemic and its restrictions.

We would also like to thank Patrizia Delpiano, Germana Gandino, Andrea Pennini, Claudio Rosso, Riccarda Suitner and Edoardo Tortarolo, who attended the seminars we organized and contributed to the preliminary discussions in preparation for the book. We are also indebted to Simone Ghelli and Emanuele Salerno, who helped to revise bibliography and footnotes, and to Ralph Footring for copy-editing the chapters.

A special thanks goes to the editors of the book series 'Early Modern Natural Law: Studies & Sources', particularly to Knud Haakonssen for his insightful and valuable comments, as well as to the anonymous peer reviewers for their accurate and constructive suggestions.

The text of several chapters was translated from the Italian by the following: Matthew Armistead (Chapter 4, Gabriella Silvestrini; and Chapter 9, Frédéric Ieva); Filippo Valente (Chapter 6, Serena Luzzi; and Chapter 8, Vittor Ivo Comparato); and Chiara Rotondi (Chapter 11, Giuseppina De Giudici).

The seminars and the publication of this volume have been made possible by research funds of the Department of the Humanities, University of Eastern Piedmont, and of the University of Zurich, to which grateful acknowledgement is made, but to which no responsibility is attributed.

Notes on Contributors

Alberto Clerici

is Professor of History of Political Thought at the Faculty of Political Science of the University Niccolò Cusano in Rome. His main research fields include the history of early modern theories of sovereignty, resistance and the law of nations. He has published *Monarcomachi e giusnaturalisti nella Utrecht del Seicento. Willem van der Muelen e la legittimazione olandese della 'Glorious Revolution'* (Milano: Franco Angeli, 2007).

Vittor Ivo Comparato

is editor of the journal *Il Pensiero politico*. Professor emeritus, he has long taught History of Political Thought and Modern History at the Universities of Florence and Perugia. His research has mainly focused on the history of seventeenth-century French and Italian political thought, erudite libertinism and republicanism. His monographs include: *Giuseppe Valletta. Un intellettuale napoletano della fine del Seicento* (Napoli: Istituto Italiano di Studi Storici, 1970), *Uffici e società a Napoli (1600–1647): dell'ideologia del magistrato* (Firenze: Olschki, 1974); *Cyrano de Bergerac Politique* (Napoli: ESI, 1997) and *Utopia* (Bologna: il Mulino, 2005).

Giuseppina De Giudici

is Associate Professor of Medieval and Modern Legal History at the Department of Law, University of Cagliari. Her main research fields include the history of *jus gentium*, with a focus on the legal status of ambassadors in the modern age, and the history of the University of Cagliari and the teaching also of international law. Her books include *Sanctitas legatorum: Sul 'fondamento' dell'indipendenza giurisdizionale in età moderna* (Napoli: ESI, 2020). She is editor, together with Dante Fedele and Elisabetta Fiocchi Malaspina, of the collection of essays entitled *Soggettività contestate e diritto internazionale in età moderna* (*Historia et ius*, 2023, open access).

Elisabetta Fiocchi Malaspina

is Assistant Professor of Legal History at the Law Faculty of the University of Zurich. Her main research fields include the history of international law, circulation and diffusion of theories of natural law and law of nations in the eighteenth and nineteenth centuries, and the history of land ownership and land registration systems (in the nineteenth and twentieth centuries). She has published *L'eterno ritorno del Droit des gens di Emer de Vattel (secc. XVIII–XIX)* (Frankfurt: Max Planck Institute for European Legal History, 2017).

Frédéric Ieva

is Research Fellow in Modern History at the Department of Foreign Languages and Literature and Modern Cultures, University of Turin. His main research fields include the history of the Duchy of Savoy and the Kingdom of France in the seventeenth century, and the figure of Ercole Ricotti, the first professor of modern history at the University of Turin. His publications include: “A poor imitation of Grotius and Pufendorf?” Biographical Uncertainties and the Laborious Genesis of Vattel’s *Droit des gens*, in *The Legacy of Vattel’s Droit des gens*, ed. Koen Stapelbroek and Antonio Trampus (London: Palgrave Macmillan, 2019), 53–76; (as editor) Ercole Ricotti, *Scritti sull’istruzione militare*, prefazione di Pierpaolo Merlin (Torino: Centro Studi di storia dell’Università di Torino, 2022); and *Illusioni di Potenza. La diplomazia sabauda e la Francia nel cuore del Seicento (1630–1648)* (Roma: Carocci, 2022).

Girolamo Imbruglia

now retired, has lectured in modern history at the University ‘l’Orientale’ of Naples. His main trends of research are the history of European Enlightenment, the history of historiography and the history of Christianity in early modern Europe, especially the history of the Society of Jesus and of heretical movements. His publications include: *Naples in the Eighteenth Century: The Birth and Death of a Nation State* (Cambridge: Cambridge University Press, 2000); *The Jesuit Missions of Paraguay and a Cultural History of Utopia (1568–1789)* (Brill: Leiden, 2017); *Utopia. Una storia politica da Savonarola a Babeuf* (Carocci: Roma, 2021); ‘La religione sociniana. Culto e comunità’, *Quellen und Forschungen aus italienischen Archiven und Bibliotheken* 102 (2022): 69–85; ‘The Idea of Religion and Sacrifice from Grotius to Diderot’s Encyclopedia’, *History of European Ideas* 47(5) (2021): 1–18; ‘Civilisation and Colonisation: Enlightenment Theories in the Debate between Diderot and Raynal’, *History of European Ideas* 41(7) (2015): 2–25; ‘Tribunal de la foi et tribunal de l’opinion publique au siècle des lumières. Giannone, Montesquieu, Beccaria’, in *Censure et critique*, ed. Laurence Macé, Claudine Poulouin and Yvan Leclerc (Paris: Garnier, 2015), 333–352.

Francesca Iurlaro

holds a Ph.D. in law from the European University Institute (Florence, 2018). She was a Global Postdoctoral Fellow at New York University (2019–2020) and an Alexander von Humboldt Postdoctoral Fellow at the Max Planck Institute for Comparative Public Law and International Law (Heidelberg, 2020–2022). In her book *The Invention of Custom: Natural Law and The Law of Nations* (Oxford: Oxford University Press, 2021), she explores how *topoi* from classical antiquity shaped customary international law. In 2012 she received the

Alberico Gentili Prize for her translation of Alberico Gentili's *Lectionis Virgilianae Variarum Liber* (1603), a legal commentary on Virgil's *Eclogues*.

Serena Luzzi

is Associate Professor of Modern History at the Department of Humanities, University of Trento. Her research fields include the Enlightenment, the circulation of natural law and Italian secularization. She is editor of Carlantonio Pilati's *Di una riforma d'Italia ossia dei mezzi di riformare i più cattivi costumi, e le più perniciose leggi d'Italia* (1767) (Roma: Storia e Letteratura, 2018).

Emanuele Salerno

is Senior Research Fellow and member of the Heisenberg project team on the Grotius Census Bibliography, generously funded by the Deutsche Forschungsgemeinschaft (SO 1807/2), at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. His research focuses on theoretical and practical tools for supporting international peace and security in a historical comparative framework. In addition to the early modern history and the history of political and legal international thought, his broader academic interests are the history of universities, book circulation, libraries and archives. He has published on the legal-political culture of the ruling class and cases of pragmatization of the law of nature and nations in eighteenth-century Tuscany.

Gabriella Silvestrini

is Associate Professor of History of Political Thought at the Department of Humanities, University of Eastern Piedmont. Her main research fields include the history of early modern natural law theories, republicanism, theories of punishment, the Enlightenment and Jean-Jacques Rousseau. She has published *Diritto naturale e volontà generale. Il contrattualismo repubblicano di Jean-Jacques Rousseau* (Torino: Claudiana, 2010).

Antonio Trampus

is Full Professor of Early Modern History at the Department of Linguistics and Comparative Cultural Studies, Ca' Foscari University, Venice. His research focuses on cultural history, history of political ideas and constitutionalism. His books include the critical edition of Benjamin Constant's commentary on Filangieri (Berlin: de Gruyter, 2012), the edited volume with K. Stapelbroek of *The Legacy of Vattel's Droit des gens* (Cham: Palgrave, 2019) and *Emer de Vattel and the Politics of Good Government: Constitutionalism, Small States and the International System* (Cham: Palgrave Macmillan, 2020).